

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:23-cv-23004-WPD

JANE DOE, a minor, by and through her
mother and next friend, MOTHER DOE,
Plaintiff,
vs.

ACADEMIR CHARTER SCHOOLS, INC., and
SUPERIOR CHARTER SCHOOL SERVICES, INC.,
Defendants.

_____/

DEPOSITION OF OLIVIA ANGELICA BERNAL

THURSDAY, MAY 9, 2024
10:02 a.m. - 4:44 p.m.

ALL PARTIES APPEARED REMOTELY

- - -

Reported By:

Katiana Louis
Notary Public, State of Florida
Miami Office #27400

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 DEREK SMITH LAW GROUP
4 520 Brickell Key Drive, Suite O-301
5 Miami, Florida 33131
6 (786) 568-8120

7 By: KYLE THOMAS MACDONALD, ESQUIRE
8 Kyle@dereksmithlaw.com

9 On behalf of the Defendant Academir Charter
10 Schools, Inc.:

11 FREEMAN MATHIS & GARY, LLP
12 301 East Las Olas Boulevard, Suite 250
13 Fort Lauderdale, Florida 33301
14 (954) 406-5674

15 By: JULIE BETH KARRON, ESQUIRE
16 Julie.karron@fmglaw.com

17 On behalf of the Defendant Superior Charter
18 School Services, Inc.:

19 GARRISON, YOUNT, FORTE & MULCAHY, L.L.C.
20 601 Bayshore Boulevard, Suite 800
21 Tampa, Florida 33606
22 (813) 515-0322

23 By: JULIE CATHERINE MCHAFFIE, ESQUIRE
24 Jmchaffie@garrisonyount.com
25

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1 Thereupon:

2 OLIVIA ANGELICA BERNAL
3 was called as a witness and, having been first
4 duly sworn and responding, "Yes," was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MACDONALD:

8 Q. Good morning. My name is Kyle MacDonald
9 and I represent Jane Doe in her lawsuit against
10 Academir Charter Schools, Inc., and Superior
11 Charter Schools Services, Inc. Thank you for
12 being here today.

13 A. Thank you.

14 Q. Can you please start by stating your
15 full name for the record?

16 A. Olivia Angelica Bernal.

17 Q. Have you ever been deposed before?

18 A. No.

19 Q. Okay. I'm going to go over a few things
20 so we're both on the same page for the
21 deposition. Do you understand that you've been
22 placed under oath and you have the obligation to
23 testify truthfully here today?

24 A. Yes.

25 Q. And do you understand that even though

1 we're conducting this deposition via Zoom, your
2 testimony has the same force and effect as if you
3 were testifying in a court of law before a judge
4 and jury?

5 A. Yes.

6 Q. Now, the court reporter cannot
7 transcribe any inaudible responses like a gesture
8 or a shrug, so please make sure to respond
9 clearly and verbally just as you have been.

10 Okay?

11 A. Okay.

12 Q. Now, the court reporter also cannot
13 accurately reflect our responses if we speak at
14 the same time. So, I will wait until you finish
15 your answers and I just ask that you wait until I
16 finish my questions. Okay?

17 A. Okay.

18 Q. Now, we want to ensure that we get your
19 best testimony. So, if there is any question you
20 don't understand, or anything you find confusing,
21 just let me know and I'll be happy to rephrase it
22 for you. Okay?

23 A. Okay.

24 Q. If you need to take a break at any point
25 to use the bathroom, to get a drink of water,

1 anything like that just let me know, and I'm
2 happy to do so.

3 A. Okay.

4 Q. Is there anything that would prevent you
5 from thinking clearly and testifying truthfully
6 here today?

7 A. No, sir.

8 Q. Now, for the purposes of today's
9 deposition, I'm going to refer to Academir
10 Charter Schools, Inc. as simply Academir if
11 that's okay with you.

12 A. That's fine.

13 Q. And on that same note, I will refer to
14 my client, who is a minor, , as Jane
15 Doe, to help protect her identity. Is that okay
16 with you?

17 A. That's fine with me.

18 Q. Do you understand that you're here to
19 testify on behalf of Academir?

20 A. Yes, sir.

21 Q. And do you understand that your answers
22 are based not only on your own personal knowledge
23 but all knowledge known or reasonably available
24 to Academir?

25 A. Yes, sir.

1 Q. And do you understand that your answers
2 will be binding on Academir?

3 A. Yes.

4 MR. MACDONALD: I'm going to share
5 my screen and show you a document.
6 We'll mark this as Exhibit 1.

7 (Plaintiff's Exhibit No. 1 was
8 marked for identification.)

9 BY MR. MACDONALD:

10 Q. And I want to draw your attention to
11 this list of topics here. I'll give you a moment
12 to review.

13 A. I'm done.

14 Q. Are you prepared to give testimony
15 regarding those topics listed here, one through
16 ten?

17 A. Yes. Yes, I am.

18 Q. Now I'll give you a moment to review
19 this next page.

20 A. Ok.

21 Q. Are you prepared to give testimony
22 regarding the topics listed here, topics 11
23 through 21?

24 A. Yes, I am.

25 Q. Now I'll give you a moment to review

1 this last page.

2 A. Okay.

3 Q. Are you prepared to give testimony
4 regarding topics 22 through 29 listed here?

5 A. Yes, I am.

6 Q. What did you do to prepare for today's
7 deposition?

8 A. I read over some of the documents that
9 were provided. I met with Ms. -- our attorney,
10 Ms. Karron, and we just reviewed some of the
11 types of, you know, questions, how to respond
12 and --

13 MS. KARRON: Hold on.

14 MR. MACDONALD: I have to cut you
15 off.

16 You don't have to tell me about
17 anything you discussed with your
18 attorney.

19 MS. KARRON: I was about to object,
20 so thank you.

21 BY MR. MACDONALD:

22 Q. What documents did you review to prepare
23 for today?

24 A. I have them right here. One of them was
25 the actual -- the filing that you guys made, our

1 management agreement, the student code of
2 conduct, things that I have in order to just
3 review and prepare, all of the Title IX stuff
4 that we handle. And that was pretty much it.

5 Q. Did you speak with anyone besides
6 Academir's attorney about today's deposition?

7 A. No, sir.

8 Q. What is your current address?

9 A. I just moved. So, it's 15709
10 Southwest 80th Lane, Miami, Florida 33193.

11 Q. How long have you lived at that address
12 for?

13 A. Since Saturday.

14 Q. Where are you conducting today's
15 deposition from?

16 A. From my work office.

17 Q. Where is that located?

18 A. 15420 -- I don't even know our
19 address -- Southwest 157th Avenue. And it's
20 suite -- not suite. It's unit number 5 or bay
21 number 5. I'm sorry.

22 Q. And is that the office for Academir
23 Charter Schools or --

24 A. It's the corporate office for Superior
25 Charter Schools that services all of the Academir

1 Charter Schools.

2 Q. Is anyone in the room with you?

3 A. No, sir.

4 Q. Have you ever been arrested before?

5 A. No, sir.

6 Q. Have you ever been a party to a civil
7 lawsuit before?

8 A. No.

9 Q. Have you ever been a witness in any
10 lawsuit before?

11 A. No.

12 Q. Did you attend college?

13 A. I did.

14 Q. Where did you attend college?

15 A. I did my undergrad at Nova Southeastern
16 University. I did my master's at University of
17 Miami. And I did my specialist degree in
18 leadership at Nova Southeastern University.

19 Q. What degree did you first earn at Nova
20 Southeastern?

21 A. Bachelor of Science in education, in
22 special education services.

23 Q. And what degree did you earn at the
24 University of Miami?

25 A. I earned a degree in reading K-12,

1 specialist, and special education.

2 Q. And I believe you said you obtained a
3 certification at Nova after that?

4 A. No, a specialist degree.

5 Q. I apologize. And what was that
6 specialist degree in?

7 A. Educational leadership.

8 Q. Do you have any professional
9 certifications?

10 A. I do. I have a Leadership, K-12. I
11 have Reading K-12. ESOL K-12. Special Education
12 K-12.

13 Q. And who are those certifications given
14 by?

15 A. Florida Department of Education.

16 Q. And did you have to undergo any training
17 or take any type of exam to earn those
18 certifications?

19 A. Once you complete your program,
20 typically you go in and you take the exam. If
21 you pass, then you're certified.

22 In Leadership, obviously you go through
23 an entire two years of training. And after you
24 complete your program, you take the assessment to
25 get your certification in that area and that's

1 all.

2 Q. Are you a member of any professional
3 associations or organizations?

4 A. I'm part of the charter school alliance,
5 the Florida Charter School Alliance, that's
6 pretty much it right now.

7 Q. What is the Florida Charter School
8 Alliance?

9 A. It's an organization throughout the
10 state of Florida that provides resources and
11 support to charter schools. I do some work for
12 them sometimes. I did their evaluation system
13 for the state of Florida for the charter schools.

14 Q. Was that paid work or you volunteered
15 with the organization?

16 A. They initially paid me when I did the
17 evaluation system for them. And then I just
18 consult with them. If they need me to interview.
19 If they need me to do, you know, stuff like that,
20 I don't charge them. It's part of our
21 partnership.

22 I did a fellowship with them to help
23 other principals and leaders throughout the state
24 of Florida as they're starting their career as
25 leaders. So, I'm kind of like a mentor.

1 Q. And how long have you been a member of
2 the charter school alliance for?

3 A. A couple of years. I've known them for
4 about ten years or so.

5 Q. Where do you currently work?

6 A. I work for two places. I work for
7 Superior Charter School Services and I also work
8 for Academir Charter Schools, Inc.

9 Q. What do you do for Superior Charter
10 School Services?

11 A. A combination of things. I have an
12 oversight of the charter schools, an organization
13 for compliance, for accountability.

14 I also help with the growth and
15 expansion.

16 I'm the writer and creator of all the
17 charter school applications.

18 I handle grants.

19 I handle issues that may arise at the
20 schools.

21 Title IX.

22 I do an array of different things. I
23 help them with the acquisition of bonds and
24 transactions. The day-to-day operations in terms
25 of compliance, in terms of manuals, in terms of

1 policies and procedures, handbooks.

2 The new opening to -- I start up
3 charters. You know, from -- I write them. I
4 start them. I develop them, and I turn them over
5 to the new administration.

6 Q. Now, you mentioned policies and
7 procedures. What kind of policies and procedures
8 do you assist with for Superior?

9 A. Well, we're contracted under Academir
10 Charter Schools to help support these charters
11 and so they have to have an array of different
12 policies in place. So, I work with the attorneys
13 and I work with the organization and leaders
14 within to develop policies for safety, for
15 security, for reporting, for just the day-to-day
16 operations of things that have to be in place.

17 I support with the handbooks, the parent
18 teacher -- the parent of student handbooks, just
19 about all of the policies that they require on an
20 annual basis and to update them. The fiscal
21 policies for grants, rents, for finances.

22 Q. Now, I understand you assist with
23 policies and procedures for -- Academir's
24 policies and procedures. Have you ever assisted
25 with any policies and procedures specific to

1 Superior?

2 A. Typically I don't. I mainly -- that
3 typically comes from like our HR department for
4 the employees, but typically, no. That's not
5 something I do. I mainly work with the charter
6 schools.

7 Q. And then, you also mentioned compliance,
8 that you assist with for Superior. What kind of
9 tasks do you perform with regards to compliance
10 that are specific to Superior?

11 A. Just to ensure that we're providing the
12 resources that are needed to the schools. For
13 example, the monthly financials, we subcontract
14 with our CPA. So, I have to ensure that the CPA
15 hands in everything so that I can then turn it
16 over to the schools. That our annual audits are
17 taking place. That the engagement letters are
18 completed. That our annual evaluation is
19 conducted. That we conduct our meetings with the
20 governing board to ensure, you know, that we are
21 fiscally compliant with our quarterly meetings,
22 that the reporting of those meetings, that the
23 collection of the information, the notes that are
24 taken, that they are posted. The aspect -- so
25 everything that pertains to Superior in terms of

1 compliance for the charter schools.

2 Q. And then you mentioned grants as well
3 that you assist with for Superior; is that right?

4 A. That is correct.

5 Q. What kind of grants does Superior
6 receive?

7 A. Superior does not receive grants.
8 Academir Charter Schools does receive grants. We
9 are just the grant managers in terms of we work
10 with the principals to develop their budgets.
11 The budgets then are translated into a series of
12 documents that they need with their plans, with
13 their request for reimbursement. The collection
14 of all of the invoicing payroll, anything that
15 needs to be submitted with each packet, we
16 prepare it and we turn it over to the principal
17 for upload into their compliance platform and
18 that's what I do.

19 Q. And do those grants include both federal
20 and state grants?

21 A. Yeah. The -- well, all of the state
22 grants come from the federal government, so to
23 speak, right. So, these last couple of grants,
24 they're ESSER grants which are obviously as a
25 result of COVID and learning loss and all those

1 kind of things, but they are disbursed and
2 allocated through the state, and are given to the
3 district for disbursement. We have to develop
4 our plans, submit everything -- we submit
5 everything. The grant funds to our county, our
6 district, Miami-Dade County as they are LEA for
7 grants.

8 Q. And what is LEA?

9 A. It's the holder of the grants. They're
10 the ones that are responsible and like the agency
11 that we use per our county. We're not our own
12 district. So, we rely on our sponsor, which is
13 Miami-Dade County, to meet all those
14 requirements.

15 Q. And then I believe you mentioned a
16 specific type of grant? I believe it was an
17 acronym that you used.

18 A. Yes, the ESSER, which are just the
19 educational success supplemental awards, right.
20 So, they're just grants that are -- that have
21 been out for the last couple of years. Actually,
22 this September is the end of those.

23 We also have state-awarded grants for
24 new charter schools. And it just depends, but
25 all of those monies belong to the schools for the

1 students for the -- not the day-to-day operations
2 but for specific things, like if there is
3 learning loss, are you doing tutoring after
4 school, homework assistance, purchasing new
5 curriculum, specific things to student learning.

6 Q. Do you hold a specific title at
7 Superior?

8 A. I'm the chief operating officer.

9 Q. And are you a full-time employee with
10 Superior?

11 A. Yes, I am.

12 Q. And how long have you been chief
13 operating officer for?

14 A. For the last two years. I've been with
15 the organization for nine years. I was
16 previously principal at Academir Charter School
17 West.

18 Q. For the time that you've been chief
19 operating officer, who do you report to?

20 A. Rolando and Esther Mir, and Alexander
21 Casas, which is the governing board chair for
22 Academir Charter Schools.

23 Q. And you mentioned Rolando Mir. Rolando
24 Mir is the CEO of Superior; is that right?

25 A. Yes,

1 Q. And you mentioned Esther Mir; is that
2 his wife I imagine?

3 A. Yes, and she's the president of Superior
4 Charter Schools.

5 Q. Were you principal at Academir
6 immediately prior to your role as chief operating
7 officer?

8 A. I was. Prior to that, yes. So, I was
9 at Academir Charter School West and East, which
10 is another one of our charter schools that I
11 opened up, and then I transitioned.

12 Q. How long were you principal for at
13 Academir?

14 A. Six years, six and a half years.

15 Q. And what prompted your transition from
16 principal to chief operating officer at Superior?

17 A. It was a position that they had been
18 working on moving me because of the growth and
19 expansion. As a principal I was also supporting
20 and helping with that growth and expansion of new
21 charter school applications, the new acquisition
22 of schools, and bonds and so it just became very
23 hectic for me and I had to make a decision and
24 they had been prompting me to come for a little
25 bit, but I loved the school setting. And so, I

1 was like, "I am not ready. I'm not ready." And
2 then it just became a lot and so I told them I
3 was ready and I moved over.

4 Q. And you mentioned you also currently
5 work for Academir; correct?

6 A. Correct.

7 Q. And what do you do for Academir?

8 A. I'm -- I support the schools. I support
9 the principals. All of the compliance stuff that
10 I do, I do it for the schools. I do site visits.
11 I work with the principals. I hold principal
12 meetings, trainings, just about everything. I'm
13 the person that they typically call if they have
14 an issue or, "Hey, my police officer didn't show
15 up this morning," and I make sure that they're in
16 place, that I contact the people that need to be
17 contacted, if there is an issue at the school, if
18 they need help, if it's an admission of something
19 to the state, to the district, I am the person
20 that guides and supports them and helps them
21 through the process.

22 Q. What is your title at Academir?

23 A. I'm the chief operating officer.

24 Q. So, you're the chief operating officer
25 for both Superior and Academir; is that correct?

1 A. Yes. And on record --

2 MS. KARRON: Hold on. Sorry. I
3 just wanted to object -- to clarify. I
4 think she said she was the CEO for
5 Superior and the COO for Academir. Did
6 I get that wrong?

7 THE WITNESS: Yes. So, I'm the
8 chief operating officer for both
9 organizations, but on record for
10 Academir Charter Schools, I'm a
11 principal on special assignment because
12 that's the code that we use for the
13 district.

14 BY MR. MACDONALD:

15 Q. So, just to go back to my last question:
16 You are chief operating officer for both
17 Academir and Superior; is that right?

18 A. That's my title. That's my title
19 overall, yes. On record, and for Academir
20 Charter Schools I'm a principal on special
21 assignment.

22 Q. Now, when you say "on record," what does
23 that mean?

24 A. Through the district you have to have a
25 job code in order to have access to the district

1 portal and engage with the district. And that's
2 what I'm on record, so I'm not going to assign
3 myself as a principal when I'm not. Typically,
4 when someone is sent to like a region office or a
5 district office, they're first a principal and
6 then they're placed on a special assignment.

7 Q. And when you just refer to "on record,"
8 do you mean for the purposes of reporting or
9 records for Miami-Dade County Schools?

10 A. That's correct.

11 Q. Why not list your title as chief
12 operating officer for Miami-Dade County Schools?

13 A. Because this is not -- even though it's
14 our sponsor and our district, there are certain
15 codes that they allow us to use and not every
16 code, like a superintendant, is available for us
17 to use to put on record. So, they only limit us
18 to a certain amount of different job codes that
19 we can have and so that's it. That's the one
20 that we use.

21 Q. Is there a job code for chief operating
22 officer?

23 A. Yes, but that's only for the county's
24 use and we're not county employees, so we're not
25 allowed to use those. Dade County even though

1 they are our sponsor, they're not my employer.
2 And so we have to abide by their rules and
3 regulations and those services are not included
4 for us.

5 Q. And is there a policy or something
6 written that says that you can't list that title
7 in the manner that you just described?

8 A. Not that I'm aware of.

9 Q. Is Miami-Dade County Schools aware that
10 you're the chief operating officer?

11 A. Yes.

12 Q. Are you a full-time employee of
13 Academir?

14 A. I'm not considered a full-time employee
15 for them, no.

16 Q. Are you paid an annual salary by
17 Academir?

18 A. I am.

19 Q. And you're also paid an annual salary
20 from Superior, I imagine?

21 A. I am.

22 Q. And how long have you been chief
23 operating officer at Academir for?

24 A. Since I moved over two years ago. Yeah,
25 two years ago.

1 Q. Meaning since you also moved over to
2 chief operating officer for Superior?

3 A. At the same time, yes.

4 Q. Who do you report to at Academir
5 specifically in your role as chief operating
6 officer there?

7 A. Alexander Casas.

8 Q. How do you distinguish your duties
9 between chief operating officer for Superior and
10 then chief operating officer for Academir?

11 A. All of my line of work is for Academir
12 Charter Schools. So, there are specific duties
13 that comingle because they have to because my
14 work here at Superior is for all of the charter
15 schools. So, when I do budgets, or when I do
16 grants, or when I do applications, they're for a
17 particular school, but all of my work is for
18 Academir Charter Schools, and that is why I can
19 do both simultaneously because I'm doing my job
20 for both because that's what the line of work
21 requires.

22 None of my work is just specifically for
23 Superior because Superior is hired to do the
24 day-to-day operations of Academir Charter
25 Schools. Now, there are physical days, like

1 yesterday, I was all day at a location. Those
2 are the days that I'm physically there at a
3 campus. A lot of my work is done through here
4 because that is what it entails. I have to
5 complete, develop, you know, organize all of
6 those things here and then deploy. So, every
7 aspect of my job is not for Superior; it's for
8 the schools.

9 Q. So then, what specific duties do you
10 perform for Academir that you're paid a salary
11 for if all of your work for Superior is on behalf
12 of the schools?

13 A. My site visits, individual cases where I
14 go to the school where I have to take care of
15 issues. I do walkthroughs. I do supports to the
16 schools. I provide professional development.
17 And I do the work from there. I help with
18 individual things that they may need, whether
19 it's, you know, issues with a parent, with
20 students, with teachers. Just training, staff,
21 helping with recruiting, helping with enrollment.
22 That's what I do. I do the start-ups. I go. I
23 check. Next week I'm at another campus all week
24 long and I'm at that site physically. I work on
25 student enrollments. I have to go to

1 graduations. There are a lot of other aspects of
2 the job that are just specific to each individual
3 school.

4 Q. Are there any other employees that are
5 employed simultaneously by Academir and Superior
6 that you're aware of?

7 A. No, not that I'm aware of.

8 Q. And Academir is a not-for-profit
9 organization; is that right?

10 A. That is correct.

11 Q. Is Superior a not-for-profit
12 organization?

13 A. No, it is not.

14 Q. Isn't it a conflict of interest to work
15 as chief operating officer for Academir as a
16 not-for-profit while also working for Superior, a
17 for-profit organization that it contracts with?

18 MS. KARRON: Objection to form.

19 That calls for a legal conclusion.

20 MR. MACDONALD: You can answer.

21 THE WITNESS: It is not a conflict
22 of interest because I'm getting paid a
23 salary on behalf of all of the things
24 that I do.

25 And this is a very common practice

1 across many charter school
2 organizations, to have teams in place to
3 support and work with the schools. And
4 it's -- it's not because -- I'm not
5 getting anything but my salary. I'm not
6 doing it to profit off a school that is
7 not-for-profit. I worked for the school
8 for many years. Multiple of those
9 schools for many years. I'm 25 -- 28
10 years into education. So now my work is
11 at a different level. And I have to, in
12 order to continue to grow and expand the
13 organization, I have to be able to do
14 that and represent the educational
15 portion of Superior for the schools.

16 You have to have an instructional
17 leader to be able to do that and guide
18 the work of all of those schools that
19 we're working with and try to make them
20 high-quality institutions by replicating
21 my particular campus and that's how we
22 have made our growth. So, when you have
23 a leader like that, you have to have
24 them in both organizations. We have --
25 Superior Charter School Services is in

1 charge of hiring and providing services
2 to the schools. We have a curriculum
3 team, for example. Their supporters or
4 directors that -- may work out of our
5 offices for the schools, but they work
6 for the schools only.

7 We have a CPA that works -- that we
8 contract with, but works only for the
9 schools, to provide the finances for the
10 schools.

11 So, is it not common? It's common
12 across most and I would say -- I can't
13 say all, but I'd say it's a very common
14 practice in charter schools.

15 BY MR. MACDONALD:

16 Q. It's a common practice for employees
17 to -- strike that.

18 It's a common practice for individuals
19 to be paid employees of both charter schools and
20 the management companies of those charter
21 schools?

22 MS. KARRON: Objection to form.

23 THE WITNESS: Yes.

24 BY MR. MACDONALD:

25 Q. And when you say it's common, I imagine

1 you're referring to schools that you're familiar
2 with or worked with in the past?

3 A. Yes, I worked at another charter school
4 organization. And I was one of their executive
5 directors and it was the same.

6 Q. Now, I know you touched on it briefly
7 before, but what is the relationship in terms of
8 operating the schools between Superior and
9 Academir?

10 A. What is the relationship? Can you
11 explain a little bit what you're trying to say?

12 Q. Sure. So, what aspects of operating
13 Academir Charter Schools does Superior handle?

14 A. They handle typically the day-to-day.
15 Anything having to do with payroll, with HR, with
16 grants management, with financial and fiscal
17 responsibilities, with facilities, with safety,
18 with acquisition of new properties, land,
19 schools, representation at the district
20 compliance, CRCs, ARCs, when we're presenting new
21 applications, and just the day-to-day operations
22 of a school from accounts payable to accounts
23 receivable, curriculum, and instruction.

24 Q. Are the teachers at Academir Charter
25 Schools employed by Academir or through Superior,

1 typically?

2 A. They are employed by ADP.

3 Q. They're employed by ADP, like the
4 payroll company?

5 A. That is correct, for Academir Charter
6 Schools, Inc.

7 Q. So then, who would you say is employed
8 by Academir Charter Schools and not ADP?

9 A. These are employees at will. So, their
10 contracts are through Academir Charter Schools,
11 Inc., and then everything is managed by ADP. So
12 the hiring process, everything is -- their HR is
13 ADP, so to speak.

14 Q. Okay. But they're contracted through
15 Academir Charter Schools, Inc.; right?

16 A. Uh-huh.

17 Q. And those contracts I imagine set out
18 their salaries and responsibilities for the
19 teachers?

20 A. Correct.

21 Q. Is that the same case for administrators
22 of Academir Charter Schools?

23 A. That is correct.

24 Q. Now, you stated that you handle
25 compliance for Superior; is that right?

1 A. For Academir Charter Schools.

2 Q. Okay.

3 A. Well, both, right. So, I do the
4 compliance, because they're two separate -- the
5 Academir for Academir Charter Schools, they're
6 state and district requirements that need to be
7 in place, that they need to upload on a monthly
8 basis. So, I ensure that all of those compliance
9 pieces are in place, that they are submitted and
10 they're turning everything in.

11 From the Superior side, I make sure that
12 all of the needs that the school have are being
13 met whether it's their monthly financials, I make
14 sure our CPA has them in place and then I turn
15 them over to the schools. So, I make sure that
16 both are compliant to ensure the success of each
17 school.

18 Q. Okay. So, you're responsible for
19 compliance with both entities; is that correct?

20 A. Yes. Not Superior as a whole, but the
21 piece that belongs to the school for the
22 operations of the school. Because there are so
23 many other aspects of Superior. I don't man
24 anything in Superior. What I do is everything
25 for the schools.

1 Q. Is there anyone else at Superior that
2 handles compliance?

3 A. I mean, it just depends on what your
4 definition of compliance is. So, if it's
5 employee compliance and things like that, we do
6 have somebody else in charge of employees. I
7 don't do anything with the employees here
8 physically, but I only -- I work with the
9 compliance of the schools as it relates to
10 Superior and the schools.

11 Q. Do you know if Superior itself receives
12 any federal funding?

13 A. They do not.

14 Q. And that includes indirect federal
15 funding as well?

16 MS. KARRON: Objection to form.

17 MR. MACDONALD: You can answer.

18 THE WITNESS: We don't receive any
19 federal funding. We receive funds for
20 the services we provide the schools. We
21 don't receive grants. We don't receive
22 anything else besides -- according to
23 our management agreement percentage from
24 every campus for the day-to-day
25 operations and services they are

1 receiving from this office.

2 BY MR. MACDONALD:

3 Q. And that funding that you just mentioned
4 that comes from Academir; correct?

5 A. Correct.

6 Q. And what is that funding based on, the
7 amount, let's say?

8 A. Every campus is different. It's based
9 on enrollment, but it's typically 12 percent.
10 Some of them, we don't charge anything because
11 depending on where their financial standings are.
12 Some we reduce the cost based on where they are
13 financially, but typically it's -- on average
14 it's 12 percent across all charter school
15 organizations because that is, sort of, the set
16 amount, average amount, just like a portion, you
17 know, goes to the district. Those are set
18 amounts that have to happen.

19 Q. And Academir receives federal funding;
20 is that right?

21 A. For every student that we have, it's
22 called FTE.

23 Q. So yes, they do receive federal funding?

24 A. The students, yes. You get FTE for
25 every child that is in your building.

1 Q. Sorry if I was not clear. I just want
2 to clarify that Academir receives federal funding
3 for --

4 A. Academir Charter Schools' individuals,
5 yes.

6 Q. So then, how does Superior distinguish
7 whether it's receiving indirect federal funding
8 from Academir?

9 MS. KARRON: Object to form.

10 THE WITNESS: Can you clarify what
11 you mean by "indirect"?

12 BY MR. MACDONALD:

13 Q. Well, you just mentioned that Academir
14 receives federal funding based on FTE; is that
15 right?

16 A. They receive an annual FTE amount per
17 student and every month they get their FTE funds
18 that are placed in their accounts. Those things
19 are done for the day-to-day operations and to
20 ensure that students receive an education. And
21 in order to have that, you have to have -- just
22 like there's a district from Miami-Dade County
23 Public Schools that does everything for them, we
24 are, quote/unquote, "their district." So, we
25 handle everything having to do with their

1 payroll, their insurance, with their HR needs,
2 with their accounts payable, accounts receivable,
3 with their grants, all of the managing stuff that
4 we have to do, they're providing us the payment
5 for all of those services at a minimal cost. So,
6 we're just helping them run the day-to-day
7 operations. So, whatever FTE that they get, that
8 they obtain, it's also to help them run the
9 schools because without that, they wouldn't be
10 able to run the schools the way they should be
11 able to. So, that is what we do. So, they have
12 to pay us for that, for those services, not me,
13 but the organization and that's how we help them
14 carry out their day to day.

15 Q. So, I think we are --

16 A. And it's paid through their FTE. It's
17 paid through their funding. That's how they get
18 funded. So, that is the money they have to be
19 able to use and spend on the day-to-day
20 operations of their campuses.

21 Q. And when you say "they," you're
22 referring to Academir Charter Schools?

23 A. Academir, the schools, yes.

24 Q. And you're saying Academir Charter
25 Schools receives FTE funding for all those things

1 you just mentioned; right?

2 A. They receive for the day-to-day
3 operations of their school. It's funding for
4 safe-school officers. We obtain that. We have
5 to pay the safe-school officers. So, the monies
6 that we receive, obviously through our
7 departments, they have to be disbursed
8 accordingly.

9 Q. For the FTE funding specifically, does
10 that include money from the federal government?

11 A. That comes directly from Tallahassee,
12 which I'm assuming is also coming from the
13 federal government, but it's money that is
14 allocated. Every state has their budget
15 allocation on an annual basis and every county
16 has a different allocation based on the cost of
17 living, where it's located, taxes, all of that
18 stuff gets put into this umbrella, and every
19 county in the state of Florida is paid
20 individually and every percentage, you know, that
21 is allocated to each county, that is how the
22 schools get paid and they break it down. They
23 have this lump sum and they break it down into
24 the 12 months, and that's how they get paid, how
25 the schools get paid.

1 Q. And Superior is paid a percentage of
2 that FTE; is that right?

3 A. Based on their student enrollment.

4 Q. Yes, they do, based on their student
5 enrollment?

6 A. Yeah. Every school has a percentage
7 that we charge to help them do the day-to-day
8 operations. Correct.

9 Q. Do you know what Title IX is?

10 A. I do.

11 Q. What is your understanding of Title IX?

12 A. So, Title IX is -- it covers a couple of
13 different things, right, to ensure the compliance
14 of students with regards to making sure they have
15 access to their education, and not discriminated
16 against, based on sex, sexual harassment,
17 anything like that, and that, you know, they're
18 not denied their education or any educational
19 programs.

20 Q. Is Academir subject to Title IX
21 requirements?

22 A. Yes, we are.

23 MS. KARRON: Objection. Calls for
24 a legal conclusion.

25 BY MR. MACDONALD:

1 Q. Is Superior subject to Title IX
2 requirements that you are aware of?

3 MS. KARRON: Same objection.

4 MR. MACDONALD: I didn't hear your
5 response.

6 THE WITNESS: Superior is.

7 BY MR. MACDONALD:

8 Q. Have you received training on Title IX
9 before?

10 A. I have.

11 Q. And what kind of training have you
12 received on Title IX?

13 A. On different occasions through the
14 district, I've also received it through our ADP.

15 Q. You said you received it through
16 Miami-Dade County Schools?

17 A. That's correct.

18 Q. And also through ADP, you said?

19 A. Uh-huh, yes.

20 Q. What kind of Title IX training does ADP
21 have?

22 A. It's modules online. You have an online
23 course that you have to take and at the end you
24 get a certification. And it explains the
25 different facets of the Civil Rights Compliance.

1 They talk about what to do, how to handle
2 situations, who to report to, things like that.

3 Q. And those are online modules, you said?

4 A. It's an online course.

5 Q. Is that online course specific to
6 educational institutions or is it a general
7 training on those topics?

8 A. General. Typically, the ones specific
9 to education, as it relates to that, it comes
10 from the district, from Miami-Dade County Public
11 Schools, principals and administrators typically
12 have to go to the principal meetings, and
13 usually -- that's typically something that is
14 reviewed, that is covered, that is explained.

15 Q. And that ADP online module specifically
16 covers Title IX?

17 A. Sexual harassment, typically. It covers
18 compliance for -- not compliance, discrimination,
19 you know, things that employees are entitled to.

20 Q. But does it cover Title IX as it applies
21 to educational institutions that you are aware
22 of?

23 A. Not that I'm aware.

24 Q. What is your understanding of Academir's
25 responsibilities under Title IX?

1 A. Well, that if there is an allegation or
2 some --

3 MS. KARRON: I think the video
4 froze or --

5 MR. MACDONALD: It froze for me.
6 Let's go off the record because it looks
7 like she was disconnected.

8 (A brief break was had.)

9 BY MR. MACDONALD:

10 Q. So, I don't think I got your full
11 answer. I believe my last question was:

12 What is your understanding of Academir's
13 responsibilities under Title IX?

14 A. So, the responsibility is really to
15 ensure the safety of the child, right, that they
16 feel -- or in this case, dealing with students
17 because it could be students or it could be
18 employees, right. So really the safety of each
19 individual before making a determination but just
20 to ensure that the student, if it relates to a
21 student, in this case, is that they obtain and
22 they have the right to their education and that
23 not an incident or any other issue hinders that.

24 Q. And what is your understanding of
25 Superior's responsibilities under Title IX?

1 A. As it relates to -- there are different
2 ways that we handle it, right. So, you have the
3 Title IX as it relates to employees and staff
4 members or teachers and staff members. You have
5 students and parents. And then you have that of
6 any vendor or company or an applicant that comes.
7 And that, you know, to ensure that we handle any
8 matter that is reported to us, you know,
9 accordingly and that in the process we support
10 schools as needed whether it be to assist with an
11 investigation when something is not taken care of
12 at the school level and they want to proceed and
13 go to the next level, we as the managing company
14 step in to continue the process for a grievance
15 or something like that.

16 Q. Does Academir have any Title IX
17 policies?

18 A. We do.

19 Q. And what policies are those?

20 A. Obviously, it's explained. And teachers
21 are trained or staff is trained on, you know,
22 what the rights are and what their responsibility
23 is as teachers and staff members are. What they
24 can do in reporting and it's very different at
25 the school level where if there is something that

1 is reported, and then it goes directly to the
2 school administrator, right, or an employee goes
3 directly to their supervisor, then it goes to the
4 principal and then the process begins, right. As
5 soon as -- it just depends on each individual
6 case, case by case, the way the action take
7 place.

8 Q. Does Academir have any written Title IX
9 policies?

10 A. We do.

11 Q. And what are those policies?

12 A. So, like I was explaining, we give a
13 description, and then who is responsible for
14 what.

15 What are the steps? Number one, they
16 report it to the principal. Well, they make sure
17 that the child or the employee is safe, right.
18 If there is an issue, right away you call 911,
19 but then you start the process.

20 The principal, you start the
21 investigation. You handle it accordingly,
22 whether it's calling the police or the Department
23 of Children and Families, however the steps may
24 be depending on each case. Then it's definitely
25 reported to us.

1 We have policies in place also that we
2 have to communicate with our LEA. So, the Office
3 of Civil Rights and all that does not apply to us
4 because we are not Dade County Public Schools
5 employees. So, we have to follow our own
6 procedures, but we do communicate with the
7 charter school office in case there is something
8 major or big happening. And depending on the
9 level of severity, we do have to take next steps
10 of reporting to the state, of reporting to the
11 county, uploading specific information, obtain
12 different -- completing different steps in the
13 process, but it just depends. There is a slew of
14 different steps that are required to be taken
15 depending on each case.

16 Q. Now, you mention a charter school
17 organization, what are you referring to there?

18 A. What do you mean a charter school
19 organization?

20 Q. I believe you said something to the
21 effect of since there is no LEA with the county,
22 that you --

23 A. Yeah. So we are -- we are the county
24 for the schools, right. However, we do report to
25 the charter school office if there is a case that

1 requires reporting to the state, like SESIR or
2 something to make them aware of depending on the
3 severity, and they provide services.

4 But we don't stop and say, "Let me call
5 the Office of Civil Rights and Compliance because
6 that does not pertain to us. That's Miami-Dade
7 County Public Schools. While they are our
8 sponsor and our LEA in accordance to our charter,
9 and there are certain things within our charter
10 that we opt into -- like the student code of
11 conduct, we opted in to use their student code of
12 conduct. We opted in to use their corrective
13 reading plans. So, there are things that we opt
14 into, but they're not -- all of the services that
15 are offered through Dade County don't pertain to
16 us, the charter schools.

17 Q. Who is the charter school office?

18 A. Miami-Dade County Schools has a charter
19 school office that is there to provide some --
20 the support or needed assistance to charter
21 schools.

22 Q. And these policies that you described
23 that are written, where are they located?

24 A. We have them here in HR, and the
25 principals have access to it. They have it in

1 their Dropbox. Everybody has that. And it's
2 talked about and explained at the opening of
3 schools on an annual basis.

4 Q. And when you say the policies are in HR,
5 what do you mean? Where are they physically
6 stored?

7 A. So, we have obviously our copy and we
8 follow the procedures. We have -- our HR
9 department handles anything dealing with
10 employees. I handle things dealing with parents
11 and students. And Ms. Mir handles anything
12 dealing with vendors, contractors, and other.

13 Q. Okay. Where is the policy for Title IX
14 compliance relating to students located?

15 A. Every single principal has a compliance
16 binder. Within that they have all of the
17 policies and procedures. We have our policies
18 and procedures, obviously here, a copy and they
19 have it in the schools. And in addition, they go
20 over all the policies and procedures with their
21 staff.

22 Q. Okay. So, each principal in the
23 respective Academir Charter Schools has a
24 compliance binder?

25 A. Yes.

1 Q. And within that binder is Academir's
2 policies pertaining to Title IX procedures --

3 A. Pertaining to all policies. They have
4 all policies in their possession. Every -- on an
5 annual basis those are updated, if they need to
6 reprint them and put them in a binder, just to
7 ensure that they have easy access to them that
8 they do.

9 Q. Okay. But setting aside all the other
10 policies and procedures, I'm just asking about
11 Title IX specifically.

12 A. That's included in that policy.

13 Q. Okay.

14 A. It's included.

15 Q. And what is that document titled?

16 A. I'll tell you right now. It's titled
17 just "Policies and Procedures." And then in that
18 policies and procedures handbook that we have,
19 that's one of the items in there.

20 Q. It says Title IX --

21 A. It says, "Fiscal Policies and
22 Procedures" and then in there, one of the items
23 is Title IX.

24 Q. It's within the fiscal policies and
25 procedures section then?

1 A. Yes.

2 Q. How long is the section on Title IX
3 that's within the fiscal policies and procedures,
4 roughly?

5 A. I don't know. I would have to pull it
6 up. There's a couple of pages. There is also a
7 form that they can fill out for grievances or if
8 they need to take it a step further as it
9 pertains to HR.

10 Q. And these procedures are separate from
11 the Academir employee handbook?

12 A. There's a section in the Academir
13 handbook that should say Title IX, but these
14 policies and procedures are separate. Yes, they
15 are.

16 Q. And those policies and procedures are
17 also separate from the Miami-Dade County Schools'
18 policies?

19 A. That is correct.

20 Q. So, I'll represent to you that based on
21 what you're describing to me, those policies and
22 procedures haven't been produced in this
23 litigation, based on what you're describing. So,
24 I'm just trying to understand what that document
25 looks like.

1 MS. KARRON: Give me a second,
2 Kyle.

3 Do you -- Olivia, is it possible
4 for that section for somebody to make a
5 copy of it and scan it for me?

6 THE WITNESS: Yes.

7 MS. KARRON: Would that be helpful,
8 Kyle?

9 MR. MACDONALD: Yes, that would be
10 helpful.

11 MS. KARRON: We can figure out how
12 to get you the whole binder, but for now
13 we can go ahead and just give you that
14 part.

15 BY MR. MACDONALD:

16 Q. Do you have that policy and procedure
17 with you, Ms. Bernal?

18 A. I have sections on it based on what I
19 just printed. I'm sorry -- no, it works -- I
20 have it on my desktop -- not my computer, on my
21 drive, so -- but I can get it. I can get it to
22 you guys.

23 Q. Did you review those policies and
24 procedures before your deposition today?

25 A. I did.

1 Q. How many pages roughly would you say
2 that specific section on Title IX is?

3 A. Roughly about ten.

4 Q. Ten pages?

5 A. Well, just because we add the
6 application. We add a lot of different things in
7 there. And we break it up into employee section,
8 student section. So, it's not just of students.
9 So, remember we're handling employees. We're
10 handling students, parents. And we're also
11 handling vendors and contractors and at the end I
12 also add a form that they can complete and fill
13 out. So, it makes it extensive, but it
14 delineates what is the process, how to start it,
15 and what are some of the things that we can do to
16 support the whole process. It refers to: Are
17 you following the student code of conduct? What
18 level of issue is this type of incident? Next
19 steps, who to report to, what to do. And then
20 depending on if it's employees, what's their next
21 steps, if it's students, and vendors or other.

22 Q. Who created that policy?

23 A. So the team, my organization that we
24 have, HR, myself, Ms. Mir, Ms. Xenia, who is in
25 charge -- she's the director of HR. We had to

1 sit down and go over the policies based on the
2 requirements through Miami-Dade County. There
3 was a training that we participated in and then
4 right after that it tells you that you have to
5 develop a plan of action, who was the point
6 person for each, what are the steps that you need
7 to take. And then we sat down, we developed it
8 and once it's reviewed and it's okayed by the
9 board, then we send it out to all the schools on
10 an annual basis just because it's -- it has to be
11 updated and just reviewed.

12 Q. That was you and who else worked on that
13 policy with you?

14 A. Ms. Xenia and Ms. Mir. Ms. Xenia Mir
15 and Ms. Esther Mir.

16 Q. Sorry. What was the name?

17 A. Xenia.

18 Q. As well as Rolando Mir, as well?

19 A. Ms. Esther Mir.

20 Q. Anyone else besides her?

21 A. Just us three. We reviewed it. We
22 looked at it and then the board has to review all
23 of the policies on an annual basis and that's one
24 of the policies. So, it gets approved by the
25 board.

1 Q. Who is the third person?

2 A. Ms. Xenia Mir is the HR -- she's the HR
3 director of human resources. And then Ms. Esther
4 Mir, who is the president of Superior Charter
5 Schools.

6 Q. Okay. And when were those policies
7 first created specific to the Title IX student
8 policies and procedures?

9 A. There was policies already in place when
10 I came aboard because that is part of the HR,
11 especially when, you know, it pertains to
12 employees. So I can't tell you when they were
13 established. I know when I came aboard we made
14 some adjustments because of the requirements from
15 Dade County, so probably about two or three years
16 ago.

17 Q. Now, you mentioned HR as it pertains to
18 employee policies. I'm asking specifically about
19 Title IX student procedures. When were those
20 created?

21 A. We've always had procedures in place
22 even before I came along. We have to follow
23 those procedures. So I don't know when and who
24 created them because I came and they were already
25 established, what we do on an annual basis.

1 And when they were, kind of,
2 reconfigured was when I came aboard to work for
3 Superior, that's what I know because of my
4 experience, but other than that I can't tell you,
5 who created them back when they started. I don't
6 know.

7 Q. When was the last time that you worked
8 on that policy for Title IX pertaining to
9 students with the two other individuals that you
10 mentioned?

11 A. We usually work on them over the summer
12 to present them for opening -- before, like, the
13 opening of schools and then but they have to
14 be -- so, it's once a year. And it's usually
15 over the summer.

16 Q. When was the last time you did that?

17 A. Last summer.

18 Q. What month would that be?

19 A. Our summer months for planning, anywhere
20 from June to August, so during that time?

21 Q. And was this a physical meeting between
22 you and these two other individuals where you
23 edited this policy?

24 A. Correct.

25 Q. And what changes did you make this year?

1 A. Just making the form digital and I know
2 that one of the items that we added were the
3 vendor ones, because typically we just worry
4 about the employees and the students, parents
5 making complaints. We also added the vendors
6 this past fiscal year.

7 And then trying to convert everything to
8 digital so they can have easy access to it so
9 they can do their reporting.

10 What we're thinking of doing this year
11 is making it a link so it can go directly to us.
12 So we've already discussed some of the changes of
13 our policies.

14 But every year we try to improve
15 something. Sometimes we don't even do anything.
16 We'll say, "Okay. It looks good." I mean, it
17 just depends.

18 Q. And the form was made electronic this
19 year, you said?

20 A. We're going to make it electronic.

21 Q. What have you done in regards to
22 preparing to make the form electronic?

23 A. I haven't started. We have the hard
24 copy of it. We have a form, but to make it, we
25 just convert it and make it accessible as a link

1 to all of our staff and we put it on the
2 websites.

3 Q. You have already put it on the websites
4 or that's a future plan?

5 A. No, that is for this fiscal year. We've
6 discussed it.

7 Q. And what is that hard copy form? What
8 is that document titled?

9 A. I don't have it. I didn't print it, but
10 it is a report. I can't remember the title,
11 something to the effect of incident reporting.
12 And I know that it states employee -- like, you
13 have three little things that say employee, or
14 student, or other, or vendor. So, you get to
15 select the dropdown.

16 Q. And is that form specific to Title IX or
17 is that just a general accident or incident form?

18 A. No, specific to Title IX.

19 Q. What else is included on the form?

20 A. Just name, date of incident, what type
21 of incident occurred. You know, there's a
22 section where they get to report what took place,
23 if they know the name of who did it, where the
24 incident took place, the time.

25 That's not the incident reports that the

1 schools fill out though for incidents that take
2 place. Let's say a child falls, or something
3 happens, an incident happens, there is another
4 form that is used at the school location where
5 they report what happened, who's reporting, if
6 there were any witnesses, did they contact the
7 parent. Then they have to share the information
8 after they call the parents. They update the
9 form, and then everybody who reported it has to
10 sign, who called has to sign, the parent has to
11 sign that they acknowledged that they were
12 provided the information. That's a different
13 incident form.

14 Q. So, going back to the procedures that
15 you mentioned that are in this compliance binder,
16 those have existed for at least more than a year;
17 correct?

18 A. Yes.

19 Q. And at any point did you all gather
20 documents for this case?

21 A. I did not.

22 Q. Do you know of anyone who did gather
23 documents for this case?

24 A. The principal, the assistant principal,
25 the school site.

1 Q. And the principal would be Susie Bello
2 in this case?

3 A. That's correct.

4 Q. And how do you know that?

5 A. How do I know it? Because this is one
6 of my principals. And in order for her to be
7 able to go through this whole process and receive
8 any support or guidance, we have to communicate.
9 So, we knew that this was happening from the very
10 beginning.

11 And one of the first things is to make
12 sure you've kept all of your documentation. You
13 know, typically these are not things -- you don't
14 keep every single thing that happens in one
15 fiscal year. Typically, you know, there are
16 certain documents that you have to keep for seven
17 years at the school level. And obviously, the
18 important information that pertains to student
19 enrollment and things like that, in a cumulative
20 folder, but there are some documents that are not
21 kept on an annual basis and they are discarded at
22 the end of the year.

23 So, we have to make sure and ensure
24 that, hey, you know, that is in case based on the
25 conversations you had with Mr. -- the attorneys

1 had with Mr. Mir, just make sure that you are
2 keeping your documentation and keeping it there
3 for as long as we need to.

4 Q. Now, you mentioned that in that binder,
5 in the Title IX section there is one that
6 specifically pertains to the handling of student
7 complaints; is that right?

8 A. That is correct. Really, the
9 principals, when it deals with students, these
10 policies and procedures are -- yeah, these are
11 the way to operate, but they always have to go
12 back to the student code of conduct because you
13 are dealing with, you know -- with students that
14 are in essence are Dade County Public School
15 students being serviced under the charter.

16 So you have to abide by and follow those
17 policies and procedures delineated in the student
18 code of conduct. It's not like they are going to
19 go and they are going to overstep the policies.
20 No. These are policies in place if there is a
21 grievance. Did you do these steps? But the
22 student code of conduct is really what guides the
23 principal on the next steps and what actions to
24 take when incidents arise at the school level.
25 So, how to -- you know, what is going to happen

1 if a student makes this -- this claim, what
2 behaviors are targeted, what actions to take.
3 Make sure you contact the parent. Make sure you
4 file a report, if it needs to be an incident
5 report. You have step by step as to what you
6 need to do in these cases.

7 Q. So, let's set aside the code of student
8 conduct that you mentioned before. In the
9 compliance handbook or binder that the principals
10 have, there is a section on Title IX student
11 complaints; is that correct?

12 A. Yes.

13 Q. And what specifically does that section
14 say about the handling of student complaints?

15 A. Well, first is to ensure the safety of
16 the child. You have to, depending on -- in this
17 case, for example, you have a teacher that then
18 notified another teacher, right. She's turning
19 the child over. The teacher handles it
20 accordingly based on what she is provided. At
21 that point, if there is something -- many times,
22 you know, children fall, whatever happens, you
23 know, you have to report it, you have to do an
24 incident report, depending on the severity, then
25 you communicate with your school principal and

1 the situation starts from there. There is a slew
2 of different things that need to happen depending
3 on each individual incident. So, for me to tell
4 you exactly everything that has to take place is
5 very difficult because it depends on what was the
6 situation at hand.

7 Q. In cases of student-on-student sexual
8 harassment what is the first step that that
9 policy states in terms of handling a complaint
10 from a student?

11 MS. KARRON: Objection to form.

12 THE WITNESS: Well, first of all,
13 again, you have to -- you're dealing
14 with five-year-olds, right. You have to
15 make sure first that everybody is safe.
16 That everybody is listened to and heard
17 and immediately when it's something like
18 that, you have to take action, you
19 question the child. You go, you
20 question the child. And depending on
21 what the child says, if you feel she's
22 in danger, obviously you are going to
23 take a different route. If you feel
24 that the child is okay and she's just
25 verbalizing something that was said to

1 her, you say, "Okay. We're going to
2 handle it this way. I'm going to
3 contact parents and we're going to
4 handle it internally with the parents.
5 And with the students you have to talk
6 to the students, you have to contact the
7 parents, so there is a certain, you
8 know, level of things you need to do
9 depending on the severity and the
10 situation at hand.

11 BY MR. MACDONALD:

12 Q. So, the first step in that policy is
13 questioning the child?

14 A. The first is to ensure the safety of the
15 child. That is the first step that you have to
16 do, which is what I said.

17 Q. And then the second step after ensuring
18 the safety of the child is to question the child?

19 A. Yeah. You have to first -- first of
20 all, you have to find out what took place in
21 order to make a determination of which way you
22 have to go.

23 Q. And it's in the policy that says this?

24 A. That is correct.

25 Q. Does it describe the manner in which the

1 child is supposed to be questioned?

2 A. No, sir.

3 Q. And then what's the next step after
4 questioning the child?

5 A. Depending on what the child, you know,
6 indicates or informs you of, then you have to
7 either -- you have to decide is this something
8 that is maybe it's, "He took my pencil," or
9 whatever. You then have to call in both
10 children, do mediation. If it's something more
11 extensive that you need to call the parent, then
12 you call each and every one of those parents.
13 You ask them to come in. It just depends on each
14 individual case. So, if you need to contact or
15 the next step or if you need to then take it to
16 the main office and take it to administration,
17 and let them know, hey, this incident occurred,
18 you know, parents need to be called and then you
19 proceed.

20 At that point, it just depends on who is
21 reporting. If it's the teacher who is reporting,
22 she's going to, you know -- if it's something
23 internally -- remember these are little children.
24 They are always like: "He pulled my hair." "She
25 got my pencil." "He threw my stuff on the

1 floor." "He pushed me." "He called me a curse
2 word." So, it just depends on each incident how
3 it's handled.

4 And the policy doesn't tell you step, by
5 step, by step, by step, by step of what you have
6 to say, how do you say it. If it's something
7 that needs to be investigated, we turn it over to
8 the authorities who have to do a thorough
9 investigation. That's not for us to do. We have
10 to get the initial information and we have to
11 ensure the safety of the child.

12 We have to ensure this to ensure that
13 they continue to obtain their education. The
14 whole thing is to effectively transition them to
15 get access to their education. That's our job.
16 If it's beyond that, then we have to --

17 Obviously every campus has a school
18 officer on there -- that is there throughout the
19 day. And if the case warrants -- I mean, it just
20 be depends. If we have to call because we fear
21 the child is in danger of their well-being and
22 it's something that is going to affect them or
23 that they were assaulted in any type of way, then
24 you go through the Department of Children and
25 Families. So, it just depends on the severity of

1 the situation at hand and what is communicated to
2 us and what we have on hand at the school.

3 Q. What does the policy say specifically as
4 to making a decision as to next steps after
5 interviewing a child?

6 A. You have to make a determination if it's
7 something, you know, minimal, if it's
8 something -- what level of severity is it. And
9 again, you refer back to the student code of
10 conduct. There is five different levels.

11 If it's something, you know, did it
12 disrupt your learning environment? And in this
13 case it did. It disrupted the teacher having to
14 go and prompt and ask the child, and, you know,
15 go and get a translation from another employee so
16 we can get the right communication. You know, it
17 depends. If it stopped the learning environment,
18 then it warrants, you know, "Hey let's call all
19 parents at hand. Let's, you know, sit down and
20 conference with the students, separate the
21 students."

22 I mean, it depends on what are the next
23 steps. You know, there are a lot of different
24 next steps, and it does not delineate, step, by
25 step, by step, by step because every single case

1 is individualized. I can't look at it as a
2 whole. It's impossible.

3 Q. So, to clarify you're stating that there
4 is no steps of procedures in the policy in the
5 binder that the principals use?

6 A. There are steps to follow, but they're
7 all very general. This is -- if this warrants
8 that the communication -- if it's something -- I
9 can't tell you if there is a pencil that was
10 taken away from another child versus a child
11 being stabbed with a pencil, those are two
12 different actions that you have to take.

13 I can't tell you all the different types
14 of actions that are going to take place, but
15 first you have to ensure the safety of the child,
16 then you have to question the child or, you know,
17 get an understanding as to what is happening. If
18 it warrants -- then you have to communicate with
19 both parents. And then after that, if it's
20 something that needs to be taken to the next
21 level, then you go to the administration to
22 handle this, right.

23 And then the administration takes over
24 and starts her process: Calling the parents,
25 bringing the parents out, you know, making sure

1 that the students are okay, that they're safe.

2 If there is a counselor on hand, the
3 counselor is deployed to speak to the child. I
4 mean, there are steps. And you'll see the steps,
5 you know, step by step, but it just depends. Not
6 every situation is going to warrant that. Not
7 every situation is going to go beyond, "Okay.
8 Are you safe? Are you okay?" "Can you return
9 the pencil?" "Can you say I'm sorry?" Yes,
10 those are the kinds of things that you have to
11 rule out. You can't start a whole investigation
12 for a stolen -- because, you know, you are there
13 to ensure that the students obtain their
14 learning. And that's really our job and to
15 ensure their safety, right. And once you obtain
16 and you determine that they're safe, then
17 proceed.

18 Q. So, I apologize if I'm not being clear.
19 I'm not asking you about general experience or
20 guidance on handling these topics. I'm asking
21 you specifically about the Title IX policy on
22 handling student complaints that is contained in
23 the principal's binders.

24 Is there steps and procedures listed in
25 that specific section?

1 A. There are, but they are very generic.
2 They are not popular to every single piece.

3 Q. Okay.

4 A. It's impossible. There is no policy
5 like that in place.

6 Q. Okay. So, there are steps, but they
7 are --

8 A. There is a policy in place. There is a
9 policy in place.

10 Q. So, I want to talk about those steps
11 that are in place for that policy. You said, I
12 believe, the first step is ensuring the safety of
13 the child within that policy; is that right?

14 A. That is correct.

15 Q. And then the second step, I believe you
16 said, had to do with interviewing or asking the
17 child questions; is that right?

18 A. Well, the only way that you're going to
19 be able to understand what is the situation is to
20 ask the child what happened. You have to. There
21 is no other way. If a child comes to you, you
22 have to know, "Okay. Are you okay? Are you
23 hurt? Are you injured?"

24 "No."

25 "Okay. So what happened?"

1 After that you have to determine what
2 next steps to take.

3 Q. And the policy says that you should
4 interview the child; correct?

5 A. You have to. You have to obtain the
6 information. You need the information to get
7 started.

8 Q. Okay.

9 A. So, you should. It doesn't say to
10 interview. You don't have to interview a child.
11 We don't interview a child. We ask the children
12 questions. So, as an administrator, I'm not
13 sitting there and interviewing and writing down
14 questions and -- specific to this -- I say,
15 "Papito, what happened? How do you feel? What
16 happened? Did you fall? Did you get injured?
17 Are you hurt?"

18 Those are the kind of questions we do,
19 but we don't sit there and interview a child
20 asking them specific questions or probing them
21 to, you know, try to obtain the information. No.
22 "What happened? Tell me what happened."

23 MS. KARRON: One second. I think,
24 let me try -- perhaps is it possible,
25 Olivia, to get that policy now because I

1 think he's just asking you to tell him
2 what it actually says in the policy.
3 So, maybe if we could give that over as
4 well, then maybe that would be helpful.

5 And stop me if you want, Kyle. I'm
6 just trying to streamline this.

7 MR. MACDONALD: If you have it in
8 front of you, that would be great.

9 MS. KARRON: Yeah, if you have it
10 in front of you, maybe you just want to
11 read the steps exactly as it says.

12 THE WITNESS: No, I just took the
13 specific items, but I didn't take
14 everything. No. It's just really to
15 ensure the safety and well-being of the
16 child. If there is an emergency, you
17 have to call 911, obviously. If the
18 child is hurt -- and that's what I'm
19 saying. So, if there is an emergency,
20 then you call 911.

21 BY MR. MACDONALD:

22 Q. Are you looking at a document right now?

23 A. I am.

24 Q. What is that document?

25 A. Based on my --

1 Q. What is that document titled?

2 A. It's just based on my notes, but I mean,
3 I would have to leave the meeting and go and try
4 to tell them to send it to you, but really it's
5 just -- go ahead.

6 Q. Do you have the policy or procedure that
7 you were just referencing in front of you? Yes
8 or no?

9 A. I do. I do.

10 Q. What is that document titled?

11 A. It's the "Fiscal Policies and
12 Procedures." So, under that fiscal policies and
13 procedures, it's one section. And this one is
14 just the steps for -- the steps you can follow
15 when a sexual harassment is made or a sexual, you
16 know, in this case is made.

17 Q. So, the document is titled "Fiscal
18 Policies and Procedures"?

19 A. Yes.

20 Q. And is there a list of steps in the
21 document you're looking at?

22 A. It says, "One, ensure the safety and
23 well-being of the child."

24 Q. Okay.

25 A. "If there is an emergency, call 911."

1 "If you suspect abuse, neglect,
2 immediately call Department of Children and
3 Families.

4 "Four, notify the principal."

5 Again, this is when you suspect sexual
6 harassment. In order to get to this step, you
7 have to first talk to the child. If you don't
8 talk to the child, you can't get to these steps.

9 Q. Hold on. I believe I got the second
10 step. You said the first step is ensuring the
11 safety of the child. And I believe the second
12 one you said is if you suspect neglect or abuse;
13 is that right?

14 A. Uh-huh.

15 Q. And what is the third step listed?

16 A. If you suspect child abuse or neglect,
17 call the Department of Children and Families.

18 Q. Is that the second or the third step?

19 A. That is the third step.

20 Q. What was the second step? I missed that
21 one.

22 A. If there is an emergency, call 911.

23 Q. And then you said the third one is about
24 if you suspect neglect or abuse. What is the
25 next one after that?

1 A. Notify the principal or your site
2 supervisor.

3 Q. Okay. And then, the next step after
4 that?

5 A. Then number five is what you do if the
6 report involves an allegation of sexual
7 harassment, by an adult or a student, it takes it
8 to a level three. So at this point, if you've
9 identified that the child said, "I was just yada
10 yada," then you have to take it to a level three,
11 and then you go to the student code of conduct,
12 then you follow those procedures. Which okay,
13 well, first of all, call the parents immediately.
14 And the code of conduct tells you exactly what to
15 do.

16 Q. And that was the fifth step; is that
17 right?

18 A. That is the fifth step.

19 Q. Are there any steps after that?

20 A. Contact our compliance office.

21 (Disconnection.)

22 BY MR. MACDONALD:

23 Q. So now, going back because the court
24 reporter missed this part of the deposition. You
25 previously were reading from a document that you

1 had in front of you; is that right?

2 A. That is correct.

3 Q. And the document that you showed to the
4 camera and that you had in front of you was, I
5 believe, the compliance manual, Title IX
6 Compliance Manual for Miami-Dade County Public
7 Schools; is that right?

8 A. Uh-huh.

9 Q. And that was not a document of Academir
10 Charter Schools' policies; is that right?

11 A. That policy is the same policy we have
12 in our manual, in our manual for students. That
13 is the same policy because we have to follow that
14 same policy for students with the exception of
15 reporting it to the Miami-Dade cops and reporting
16 it to the Civil Rights Office because we have our
17 own contact person here at Superior for the Title
18 IX, and the police officers that we contact are
19 our safe-school officers.

20 Q. And earlier when you were testifying
21 about the principal's compliance manual that they
22 have in their offices, and you referred to Title
23 IX policies, were you referring to the Miami-Dade
24 County Schools' policies?

25 A. No, I was referring to -- there's a

1 combination. We have to -- there are certain
2 slides -- there's certain information that we
3 have to have in our policy that encumbers
4 everything that Miami-Dade has with the support
5 services that we have, but we have to follow
6 those things. We have to follow making sure that
7 they are safe, if there is something that we need
8 to notify the policy. We have to follow those
9 things according to Miami-Dade public schools.

10 Now, when our guidelines are done, like
11 I told you, there is a training, there is a
12 meeting, they tell us, you have to insert all of
13 these things and then plug in all of the
14 additional information that you have for your
15 organization, who to contact, who to call, who is
16 responsible for this type of grievance, this type
17 of grievance, and this type of grievance. And
18 that is what we have to do. So, it's basically
19 what they have and what we need to add to our
20 policy. And that is what we -- that is what we
21 have to upload into our policy plan. So we
22 have -- all of our policies pretty much are like
23 that because they have to align with the
24 district, especially if we opt in to use their
25 student code of conduct, their student

1 progression plan, their reading plan. All of the
2 policy that's in there has to be Miami-Dade
3 policy because that is the one that we opt in to
4 use.

5 Q. But earlier you referenced a compliance
6 binder that each principal has; correct?

7 A. Correct.

8 Q. And in that compliance binder, you
9 stated there was a section on handling Title IX
10 student complaints; is that right?

11 A. Correct.

12 Q. And that policy specifically, is that a
13 policy that pertains specifically to Academir
14 Charter Schools or is it the Miami-Dade County
15 Schools' policies on Title IX?

16 A. It is a combination. You have the
17 policy. You have to follow the policy of
18 Miami-Dade County. You have to include that,
19 especially when it deals with children because
20 you have to follow their student code of conduct.
21 I can't reinvent the student code of conduct and
22 the steps that they require for students.

23 And what changes in our policy is who to
24 contact, how to go about to complete the form,
25 what steps to take for employees, and what steps

1 to take for vendors, but the student section has
2 to be reflective of what they do with the
3 exception of the cops because we don't report to
4 their cops. What we do is we report it to Dade
5 County Public Schools Charter office and who to
6 contact at our office that is in charge of the
7 Title IX grievances. Those are the two things
8 that changed or three things that changed within
9 our policy, but it has to reflect and mirror that
10 of Miami-Dade County Public Schools.

11 Q. So, that section in the principal's
12 compliance binder that refers to Title IX student
13 complaints, is that identical to the article that
14 you just read from Miami-Dade County Public
15 Schools?

16 A. That particular section, yes, with the
17 exception -- it's not identical, because I told
18 you it's with the exception of the cops who --
19 you know, obviously you have your safe-school
20 officer and then your Title IX contact person.
21 And then instead of contacting the cops for Dade
22 County, you have, "contact the charter school's
23 office."

24 Q. So, besides those changes that you just
25 mentioned, it is otherwise identical to the

1 Miami-Dade County Schools' policies that you were
2 reading off of earlier?

3 A. Yeah, that is correct.

4 Q. Are there any other policies in that
5 binder pertaining to Title IX student complaints
6 besides those ones that you just described now?

7 A. No.

8 Q. Outside of that binder that principals
9 have, does Academir Charter Schools have any
10 other Title IX policies regarding the handling of
11 student complaints?

12 A. No. Outside of Title IX? Like, that
13 has nothing to do with Title IX or that it does
14 have to do with Title IX?

15 Q. Are there any other Title IX policies in
16 place --

17 A. No.

18 Q. And you said those specific policies
19 have been in place for several years that are
20 contained in that compliance binder?

21 A. Yeah. We have to follow that. That is
22 something that everybody has to follow because
23 those are just the steps that will get you to the
24 next level of what you need to do and your
25 actions.

1 Q. And those are the same policies that you
2 worked on with Esther Mir and Xenia Mir?

3 A. Yeah. Remember, these are -- it's not
4 just the students. It's the employees, the
5 contracts and the vendors, all of that stuff. We
6 have to combine them and put them together.

7 Q. Does Academir adhere to the Miami-Dade
8 County code of student conduct?

9 A. We do.

10 Q. And is that strictly enforced?

11 A. Yes. When we sign our contract and we
12 get the charter school application, we have to
13 opt in or opt out, depending on what we decide
14 works best for us, and then those contracts are
15 binded, they're executed by the board of
16 Miami-Dade County and our governing board.

17 (Plaintiff's Exhibit No. 2 was
18 marked for identification.)

19 BY MR. MACDONALD:

20 Q. I'll show you a document and share my
21 screen. So, this document is Defendant's Bates
22 labeled 153 to 227. I'm going to show you a
23 specific section in a moment, but do you
24 recognize this document that I'm showing you?

25 A. Yes.

1 Q. What is it?

2 A. The student code of conduct for
3 elementary students.

4 Q. And Academir Charter Schools follows
5 these policies you said; right?

6 A. Yes, sir.

7 Q. And I know you said elementary. Does
8 that include kindergarten as well?

9 A. Yes. Elementary can be considered pre-K
10 through fifth grade.

11 Q. And you're familiar with these policies?

12 A. Yes.

13 Q. I'd like to draw your attention to this
14 page. It's Defendant's Bates labeled 196, the
15 section titled "Sexual Harassment." I'll give
16 you a moment to review it.

17 A. Uh-huh.

18 Q. You've reviewed that section there?

19 A. Yes, sir.

20 Q. Does Academir adhere to this policy
21 written in this sexual harassment section?

22 A. We do. However, Miami-Dade County
23 school police do not service Academir Charter
24 Schools or any charter schools. We have our own
25 office -- our own officers. So, we do not -- we

1 do not have to call the Civil Rights Compliance
2 either, but they don't service us. That's not
3 part of the charter school services. If a parent
4 calls them, they would say, "Okay. You have to
5 call the school and report it there."

6 We have our own governing board. We
7 have our own stuff. This in particular, the
8 sexual harassment, and I'm sure that towards the
9 end of it, it defines what harassment is. And
10 again, the procedures, we do have to do a SPAR.
11 If it's determined, an investigation is made and
12 is determined to have -- to be classified as
13 sexual harassment, then you have to proceed with
14 the SPAR and then complete an assessor report.
15 Then there is a slew of things that you have to
16 do if it gets to this level.

17 Q. And what is a SPAR?

18 A. It's a reporting system that
19 administrators have access to where they're
20 required to enter information once they get --
21 the Miami-Dade Police Department does, I guess,
22 an investigation and they'll give you a SPAR
23 number. It's kind of like a -- that the incident
24 was created and then you have to report it into a
25 platform that the principals use that is called

1 DSIS. And then they enter the information that
2 the incident took place and then you enter the
3 information, but that triggers a lot of other
4 stuff that you have to do.

5 Q. And the SPAR is that a paper form or is
6 that an electronic form?

7 A. Usually, the police officers do an
8 investigation. They give you a card with a SPAR
9 number, and it's kind of like a report. And then
10 you have to do it electronically.

11 Q. Okay. So, a police officer gives you a
12 SPAR form?

13 A. So, no, they do a report form. So, it
14 says the report -- to report these incidents,
15 right, of this nature, the police will determine
16 if a SPAR is required. A SPAR is an
17 investigation. They do an investigation and then
18 they -- well, not investigation. They kind of
19 take the case and say, "Okay. I'm going to do a
20 report." And then they generate a number that
21 they give you and that triggers the next action.
22 But the police have to determine if this is a
23 case that merits to be looked at or not. If it's
24 just something you need to bring in the parents,
25 speak to the children and do away with it, or if

1 it's something that determines an investigation.
2 And at that point, the next steps that you take
3 are going to be very different.

4 Q. Now, since Academir doesn't use
5 Miami-Dade Schools' police, who is the police
6 department that makes that determination
7 regarding the SPAR?

8 A. Miami-Dade. In this case they'll give
9 you a -- just a -- a number. Right, just a
10 number that you have to still enter into, like, a
11 police report. Once it's -- it's not a police
12 report, but it's a report that administrators
13 have to complete after they are given a police
14 report, which triggers everything else. A
15 reporting to the state, the identification,
16 what's going to happen, the next steps, is the
17 child going to be expelled. It's just a number
18 of different things that happen after that, but
19 we -- go ahead.

20 Q. The Miami-Dade County Police Department
21 makes the determination as to whether a SPAR is
22 required for Academir Charter Schools?

23 A. No. The Miami-Dade police. I'm sorry.
24 And again a SPAR is --

25 Q. Which --

1 A. A SPAR is a term used for Miami-Dade
2 County Public Schools. It's not typically
3 something that the officer from Miami-Dade County
4 is going to tell me, "Give me a SPAR number," but
5 they are going to give you like a record number,
6 and that is considered. So, when you fill out a
7 form, it's either a SPAR or the number that you
8 have to enter. That's it. But the SPAR is
9 really for them. It's a term that they use when
10 the officer determines if this warrants further
11 investigation or the action to be taken.

12 Q. So, I'm asking about Academir Charter
13 Schools and you mentioned a SPAR.

14 Does Academir Charter Schools use that
15 SPAR form? Yes or no?

16 A. We don't use the SPAR because it's a
17 term used for Miami-Dade County Public Schools.
18 We do complete that in our dashboard. So,
19 through the DSIS, once they go into the principal
20 portal, there is a report that you fill out if
21 there is -- if you are given a report, if an
22 investigation is initiated. It's not something
23 that we just go and enter and we get a SPAR
24 number. It does not work like that.

25 Q. So, Academir Charter Schools does not

1 use a SPAR form; correct?

2 A. No. Right now, no.

3 Q. Okay. Is there any form that's specific
4 to Academir that is used instead of a SPAR form?

5 A. No, what it is, what we have is -- if
6 there is an incident, it's a dual form. You have
7 an incident/injury report. You identify if this
8 was an incident or an injury. It's a report to
9 track, you know, something that took place so we
10 can keep documentation that parents were
11 notified, what was reported to us, and what took
12 place. If somebody falls, hurts their knee,
13 whatever, did we call fire rescue. So, it just
14 depends. So, it kind of denotes or outlines all
15 of the steps that were taken for students.

16 Now, if the police is involved, then we
17 know police was called. And then from there, the
18 police take over. And then they usually generate
19 a number, whether it's the police or the fire
20 rescue, they come and they'll give you a number
21 so that you can enter and make sure that you keep
22 record of it.

23 Q. You mentioned a form pertaining to
24 accidents; what is that called?

25 A. It's called the "Accident Injury

1 Report." I don't have it with me, but it's the
2 Academir Charter School "Accident Injury Report,"
3 which is, I believe, what the school did for this
4 case.

5 Q. Okay. Now, looking at this policy,
6 under the second sentence it says, "Upon
7 receiving a report of an incident sexual in
8 nature involving a student, employee, or
9 applicant, school or worksite administrators must
10 contact the MDCPS Office of Civil Rights
11 Compliance."

12 A. Uh-huh.

13 Q. Are Academir employees required to
14 contact the MDCPS Office of Civil Rights
15 Compliance upon receiving a report of an incident
16 that is sexual in nature?

17 MS. KARRON: Objection to form.

18 THE WITNESS: Academir are not
19 employees of Miami-Dade County Public
20 Schools, so they would not contact that
21 office. They would contact our HR
22 department.

23 BY MR. MACDONALD:

24 Q. Okay. So, upon receiving a report of an
25 incident sexual in nature involving a student,

1 employee, or applicant, Academir employees have
2 to contact HR?

3 A. Employees. Dealing with employees
4 particularly for our schools that are -- are
5 adults. Now, the students, they have to go
6 through the -- through a different process. They
7 don't go through this. They have to first follow
8 those other steps that I read to you earlier.

9 And this is for sexual harassment. This
10 is when you've identified the situation at hand
11 to be a harassment case, depending who is taking
12 it. If it was something that was said, minor,
13 something that was, "Oh, I like you," you know,
14 kids. Every case can't be treated as a sexual
15 harassment case.

16 Q. Well, I'm asking you specifically about
17 sexual harassment policies, that's why we're
18 looking at that section.

19 So, in the event of a report of a sexual
20 incident involving a student, who are Academir
21 employees required to contact?

22 A. So, the personnel that I read to you
23 earlier. And the steps that they take where they
24 first contact and communicate with their -- with
25 their school principal. Once that is done and

1 the school principal determines that this is a
2 sexual harassment issue, then she contacts us or
3 the employee contacts us and we move forward the
4 support for them. And we could launch an
5 investigation, but it just depends on --

6 Q. So, the principal is the first person
7 that Academir employees are required to contact
8 upon receiving a report of a sexual incident
9 involving a student?

10 A. That is correct.

11 Q. Okay. After --

12 A. Or the supervisor at hand. In this case
13 they have -- remember, there's two campuses; they
14 have a PLC and they have a main campus. The PLC
15 has an assistant principal, a lead teacher there
16 that handles it. It's either the principal or
17 the supervisor at that moment, that person is the
18 first person that would reach that information.
19 Obviously, if she's not able to handle it and she
20 sees this is an actual sexual harassment, she
21 will then contact her principal.

22 And in this case, you'll see it.
23 Obviously, it's Ms. V, who is the person in
24 charge there at that time that the incident took
25 place.

1 Q. And who is Ms. V?

2 A. Ms. Valladares.

3 Q. And who is that?

4 A. She is an assistant principal for
5 Academir Charter School West.

6 Q. So, it's either a principal or an
7 assistant --

8 A. Or supervisor. Well, a supervisor,
9 whoever is that person in charge there at that
10 time. And in this case, my teachers or the
11 teachers would go to their supervisor, which is
12 the assistant principal in charge of the PLC at
13 that time.

14 Q. Who else would be a supervisor besides a
15 principal or an assistant principal?

16 A. The principal runs the school; that is
17 her job. She is the ultimate decision-maker at
18 that school. Once that happens and they feel
19 that they need the intervention of our compliance
20 aspect of it, she contacts us and says, "Hey, I
21 have a case. A parent is alleging this," or, "An
22 employee says that this happened."

23 Obviously, if it's an employee with a
24 student or anything like that, then we call the
25 cops immediately and we turn it over to them and

1 they start and they take over the investigation,
2 but the principal will always contact our office.

3 Q. You mention they have to contact the
4 supervisor. So, I'm asking you:

5 Who else besides an assistant principal
6 or principal could be a supervisor?

7 A. That's it. They would contact us
8 because the steps say contact the principal,
9 right, or their immediate supervisor. So it's
10 somebody at the school level --

11 Q. What steps?

12 A. The steps of identifying if the child is
13 safe; do they need to call the police or -- I
14 think it's step four in the process where they
15 contact either -- if it's a teacher, they have to
16 contact their principal or their immediate
17 supervisor at the time.

18 And in this case it was Ms. Valladares.
19 And then, Ms. Valladares contacted her
20 supervisor, which is the principal.

21 Q. And when you say steps, you're referring
22 to the Miami-Dade County Schools Title IX
23 compliance manual that you were reading from
24 early?

25 A. Correct. Correct, for students only.

1 Q. Okay. Now, looking back at this
2 document, after an Academir employee learns of a
3 sexual incident involving a student, do they
4 conduct an intake?

5 MS. KARRON: Objection to form.

6 THE WITNESS: So, when the
7 employee -- and that's why I said, you
8 have to ask questions. "What happened?
9 Where did this take place? Can you
10 explain?" And then you determine what
11 next steps the employee has to do in
12 order to help the child and ensure that,
13 you know, they take the correct action,
14 if it's notifying the police, if it's
15 going to their supervisor, or if it's
16 just something the teacher can handle by
17 talking to the students, by calling
18 their parents, you know, calling the
19 counselors. There are different steps
20 that they know they have to take.

21 The first thing that you have to do
22 after you ensure that they are safe and,
23 you know, before calling the police,
24 "Hey. Are you okay? What happened?"
25 You have to get that, especially from

1 little children. You're not treating
2 them like adults or like as if this is a
3 crime. You're talking about two
4 five-year-olds and you have to treat
5 them accordingly. Just like they asked
6 the little girl -- I'm assuming they
7 asked the little girl questions. They
8 had to have asked the little boy
9 questions. You have to --

10 BY MR. MACDONALD:

11 Q. I'm asking you generally about Academir
12 Charter School's policies. I'm not asking you
13 about any particular --

14 A. Yes, they have to ask the question.
15 They have to ask questions. Is there an intake
16 form that they fill out? They don't fill out an
17 intake form. You know, while they're completing
18 their form that they have of the incident,
19 they're writing down what the child said, or if
20 there is a witness, they write down the witness
21 told me X, Y, and Z. So, the teacher or whoever
22 is reporting it has to write it down on the form,
23 but we just need to know what happened. There is
24 not an official intake form for it.

25 Q. But I'm trying to understand, earlier

1 you testified that Academir Charter Schools
2 follows this specific policy. So, I'm trying to
3 go through these steps to understand which of the
4 these policies, or steps in this policy rather,
5 that Academir adheres to. So, I'm just trying to
6 understand that.

7 So, we discussed who has to be called
8 when they learn of a sexual incident. The next
9 part listed here is about an intake.

10 So, is an intake conducted by Academir
11 employees upon learning of an incident that is
12 sexual in nature involving a student?

13 A. I cannot call it an intake. I can call
14 it a -- the incident form they have.

15 Q. So no intake is conducted. They do an
16 incident form?

17 A. They do an incident form. That is
18 correct.

19 Q. And then listed here it says that the
20 next step is, "Determining whether the report if
21 proven to be true, would meet the definition of
22 sexual harassment"?

23 A. Correct.

24 Q. And is that a step that Academir
25 employees also follow in handling complaints?

1 A. That is correct.

2 Q. And then it also references "the
3 grievance procedures outlined in the Office of
4 Civil Rights Compliance Title IX Sexual
5 Harassment Manual procedures related to reports
6 of sexual harassment."

7 Do you see that?

8 A. Yes, and that is where we go back and we
9 follow their procedures with the exception of
10 calling the Civil Rights Compliance because that
11 doesn't pertain to us and we have to have our own
12 procedure in place in-house, but all the other
13 processes of okay, did you follow these steps,
14 that is what we have to follow from Miami-Dade
15 County Public Schools.

16 Q. So, Academir employees also reference
17 that same manual and utilize it in handling
18 complaints; correct?

19 A. Correct.

20 MS. KARRON: Kyle, do we know how
21 much longer you have, just to
22 determine -- I know we've been going for
23 like two and a half hours -- for a lunch
24 break?

25 MR. MACDONALD: Yeah, once I finish

1 with this policy in this handbook, then
2 we can go ahead and take a break. I
3 should be done pretty soon here.

4 BY MR. MACDONALD:

5 Q. So, in this next paragraph here, it
6 discusses that reports of incidents that are
7 sexual in nature have to be reported to
8 Miami-Dade schools' police, to determine if a
9 SPAR is required.

10 Now, I understand Academir doesn't use a
11 SPAR report. We talked about that earlier.

12 Are Academir employees required to
13 report that, report incidents that are sexual in
14 nature to the police?

15 A. If it's determined to be -- if it's
16 determined to be something of abuse or neglect,
17 absolutely.

18 Q. Only if it's determined to be abuse or
19 neglect, would it --

20 A. If you feel that the child was abused or
21 neglected, absolutely you have to report it. It
22 is our duty to report.

23 Q. I'm asking if all incidents that are
24 sexual in nature are reported by Academir to
25 police or only those involving abuse or neglect?

1 MS. KARRON: Object to form.
2 Perhaps you can define "sexual in
3 nature."

4 MR. MACDONALD: That is what the
5 policy says that she stated the school
6 adheres to.

7 THE WITNESS: So, here, the "sexual
8 in nature" -- again, if -- "Hey, you're
9 pretty. I want to kiss you." Those are
10 the things that you don't report, and
11 those could be considered sexual in
12 nature. So, it just depends on the
13 severity.

14 If you ask the child and say, "Hey,
15 did he touch you? Did he do something
16 to you? Are you hurt? Are you
17 injured?" And the child says yes, then
18 absolutely without a doubt we call the
19 police because the child was abused in
20 any, you know, kind of, shape, way, or
21 form.

22 But if the child says, "No, he just
23 said something to me," and it's an
24 isolated incident and it's not a pattern
25 and the child is fine and is playing,

1 you know, moves on five minutes later
2 and is playing and is fine and is there
3 the rest of the day and has no
4 complaints and is not crying --
5 typically when a child comes and is
6 crying and is grieved by something that
7 has been done to them and -- children
8 are very expressive. Children will tell
9 you everything. And they'll tell you,
10 you know, "He touched me. He hit me.
11 I'm upset."

12 And you know, if the child is
13 saying, okay, you know, "He said he
14 wanted to kiss me," or "He wanted to do
15 this," you understand that it may be
16 sexual in nature, but it's not something
17 that warrants us to call the police.
18 You know, it warrants us to reach out to
19 the parents, to speak to the children.
20 And if, you know, we determine or we see
21 that this is something that really could
22 have happened or that the child is so,
23 you know, upset that something must have
24 happened, without a doubt.

25 But in this case, again, it's

1 just -- the "sexual in nature" has a
2 very broad spectrum in education in
3 children and young children. You know,
4 but it's -- but you have to -- typically
5 those cases where abuse, if we find, you
6 know, things that the kids are doing,
7 saying continuously, a teacher knows.
8 You have -- there's a certain level of
9 behavior that these children display on
10 a day-to-day basis.

11 And, you know, sometimes, you know,
12 again, like I told you before, if it's,
13 "They took my pencil." "He pinched me."
14 Those are things that happen amongst
15 children, but if you determine as a
16 teacher, as an educator, as a principal
17 that the child just said this and you,
18 you know, verified, "Are you sure? Were
19 you touched?"

20 "No. No. I wasn't touched. He
21 just told me that."

22 Then you're not going to call the
23 police because they don't -- they're not
24 going to do the SPAR, you know.

25 Now, if they see, and, you know --

1 if you can actually see that there was
2 abuse and something took place, without
3 a doubt, the first thing in the minds of
4 administrators or the process or the
5 procedure is to call the police.

6 BY MR. MACDONALD:

7 Q. Okay. So, not all reports of incidents
8 that are sexual in nature are required to be
9 reported to the police by Academir employees?

10 A. That is correct.

11 Q. Only when an Academir employee suspects
12 abuse or neglect are they required to contact the
13 police department; correct?

14 A. Well, not an employee. If it goes
15 through and you have four different employees,
16 you know, that go through this and, you know, if
17 the child tells you, "No, he just told me
18 something," and makes her feel uncomfortable --

19 Obviously, these are five-year-olds.
20 You have to take every situation differently. If
21 it's a fifth grader telling a student that, then
22 you're like -- the severity is very different.
23 But when you have children who may not even
24 express and tell you specifically the name of an
25 area in your body, just say, "He wants to kiss me

1 and he wants to touch me."

2 Kids are going to be kids. And
3 kindergartners, you know, they're babies. So,
4 you have to treat them accordingly. You're not
5 just going to say, "Okay. I'm going to" -- and
6 you have to look into the situation before making
7 that determination of calling the police. It's
8 on a case by case.

9 Q. I'm not asking you about any specific
10 scenario. I'm not referencing five-year-olds or
11 kindergartners. I'm just asking about Academir
12 policies which you're here to testify about.

13 In what cases are Academir employees
14 required to report incidents that are sexual in
15 nature to the police?

16 A. When they suspect there is abuse. If
17 there was physical abuse or, you know, an action
18 taken or a series of harassment where the child
19 themselves is visibly and physically impacted by
20 the situation, we, without a doubt, without a
21 doubt you have to say, "Okay. Something must
22 have happened for this child to be so upset at
23 the situation. So something, you know, must have
24 happened." There are behaviors that the child
25 displays. But if the child just says, "They did

1 this to me," and then continues on her way like
2 nothing ever happened -- it's like that. One
3 minute they're fighting; the next minute they're
4 best friends. So, you have to determine as an
5 administrator, as a leader, "Okay. Does this
6 warrant the next step for me to get everybody
7 involved?"

8 Q. Okay. Are there any cases outside of
9 suspected child abuse or neglect in which an
10 Academir employee is required to contact the
11 police after learning of an incident sexual in
12 nature?

13 MS. KARRON: Object to form.

14 THE WITNESS: Yes. Specifically
15 when a child says an adult touched them,
16 says that their panties were removed, or
17 it's something that a child would not
18 know to say or do or is displaying
19 specific behavior. Typically it's that.
20 You say, if that child is saying, you
21 know, her dad was with her in the shower
22 or that her stepfather undressed her or
23 vice versa, the boy, that his babysitter
24 touched him. When a child tells you
25 that an adult has done this to them or

1 that their teacher touched them
2 inappropriately, you call -- you launch
3 full-blown, you know, mode of the
4 police, the Department of Children and
5 Families. Those are the kind of, you
6 know, allegations right then and there
7 that we don't even think about because
8 you can't -- you're -- at that point you
9 know that -- and you don't know, but you
10 have to make sure that you are looking
11 out for the safety of the child. And if
12 something is happening, you're held
13 liable because that child shared
14 something with you that took place or
15 might have taken place or that she was
16 exposed to or he was exposed to.

17 BY MR. MACDONALD:

18 Q. And you said something that a child
19 would not -- strike that.

20 You said something that a child would
21 not know --

22 A. Typically.

23 Q. What does that mean?

24 A. Like they say specific names of their
25 genitals or that they were touched in an area

1 that -- something hurts down there because her
2 stepdad got into her bed, whatever.

3 There are so many different cases and
4 situations and stuff you'll see.

5 Or "My back hurts because my mom whipped
6 me yesterday," or "I'm hungry because they didn't
7 give me food last night." So those are, you
8 know, key things that you're just like -- or you
9 see bruises or you see something specific that,
10 you know, the child comes and he looks or she
11 looks not her usual self and may say things or
12 may be depressed. There are things that kind of
13 alert you as an educator to say there may be
14 something. Typically, if there is something like
15 that, they'll communicate with their
16 administrator and, you know, they'll proceed, you
17 know.

18 Q. Would that include knowledge of sexual
19 acts that a child of that age should not know
20 about?

21 MS. KARRON: Objection to form.

22 THE WITNESS: It depends.

23 BY MR. MACDONALD:

24 Q. What does it depend on?

25 A. On a case by case. It depends on a case

1 by case. There are some kids -- and I know that
2 because as a principal for many years -- some
3 kids will say, "pipi" "toto" and they say all
4 kinds of things because their parents say that or
5 private parts. "No me mira mis partes privadas."
6 "Don't look at my private parts."

7 Like, they know specific things, but,
8 you know, when it's sexual in nature, typically,
9 you know -- and again, kids, if they see -- if
10 they, you know, see something on TV or they see
11 their dad touching their mom, they are like, "Oh,
12 that's okay for me to do. I like this girl; I'll
13 grab her butt." Especially five-year-olds, where
14 they are inquisitive, and they'll tell you
15 specific things, like, "I like you. I want to
16 kiss you," but when they start acting upon them
17 and, you know, you see other signs then you'll be
18 like, "Oh, Okay. There is something happening,"
19 but when it's -- sometimes the kids will say "Oh,
20 I want to kiss you," you don't get alerted
21 because sometimes that is just -- they're
22 children and they're exploring. However, you do
23 see a difference and that is why you have to ask.
24 "Did this person do this to you? Did they not do
25 this to you?"

1 And then if they did, then obviously
2 everything changes for the school, and the way
3 they're going to react.

4 But sometimes kids say, you know, things
5 and it depends on their parents. Again, I bring
6 it back to the parents because some parents are
7 very open; whereas, you know, I'll have a little
8 boy going to the bathroom, take down his pants
9 and just start peeing there in front of everybody
10 and doesn't care. And others say, "No, I'm not
11 going to show you my private parts. I'll go into
12 the stall." They will not go to the bathroom in
13 a urinal; they will go into the stall. It all
14 depends.

15 And again, it's their upbringing and how
16 they are. If their parents are, "Don't worry
17 about it. Show everyone your pipi." Or they
18 take them to the beach and they're naked and
19 they're okay with it -- not other parents. Other
20 parents are like, "No. You have to wear a
21 bathing suit because you have to cover your
22 private parts."

23 So, every child is different, but there
24 are children that stand out for specific things,
25 for specific behaviors and actions that prompt

1 you to say, "There is something happening"
2 sometimes. Sometimes you're wrong. Sometimes
3 their parents are just like that and he sees it.
4 And others times there may be something happening
5 in the home where the child is, you know, being
6 molested or touched or, you know, exposed to
7 things that they typically aren't at that age.

8 Q. Now, looking back at this policy, in the
9 last paragraph it says, "A finding of sexual
10 harassment under the code of student conduct
11 cannot be made and corrective strategies for
12 sexual harassment may not be implemented without
13 the express authorization of the District's Title
14 IX Coordinator or designee."

15 Do you see that?

16 A. Yes.

17 Q. Does Academir Charter Schools adhere to
18 that specific aspect of the policy?

19 A. Well, we don't -- we do have a Title IX
20 and we work with them here, myself and my team.
21 We work with them to ensure that, you know, that
22 the investigation is fully done before having to
23 take some of these actions. You can't expel a
24 child. Remember, these are public school
25 children, and until you have a complete

1 investigation and you have all of the pieces
2 together, and it is determined, "Okay, this child
3 did commit this," then you go ahead and you
4 suspend and you follow the student code of
5 conduct.

6 Or if it warrants something, you know,
7 terrible where it's a level, you know, three or
8 above that you need to expel and you need to go
9 through a different process, we just ensure that
10 everybody that is going through this process,
11 especially, you know, young children that, you
12 know, that you don't interrupt their educational
13 program or activity that they're -- that they
14 should have access to under the Title IX. You
15 just don't go by --

16 Q. I don't mean to cut you off. I'm just
17 asking if Academir Charter Schools follows this
18 last section of the policy that I just read to
19 you.

20 A. We follow the student code of conduct
21 and then with the support from the Title IX as it
22 relates to, you know, the strategies that need to
23 be taken.

24 Q. You're not answering my question.

25 Is a finding of sexual harassment under

1 the code of student conduct prohibited from being
2 made until a Title XI coordinator or their
3 designee is contacted, like it says in this
4 policy, for Academir employees?

5 A. Well, they contact us, but remember that
6 you're reading something where Dade County public
7 schools has their Civil Rights Compliance person
8 that tells them exactly what to do. We don't.

9 We provide the support. We engage once
10 there is complaint from, you know, beyond -- that
11 cannot be taken care of at the school, we take
12 care of the support for that, but we don't have
13 that Title IX person that says, "No, you cannot
14 move on until you communicate with them."

15 Yes, they contact us through the process
16 so we can provide the support and guidance and
17 take care of it after the fact that, you know,
18 they were not able to take care of it, but really
19 it's the authorities at that point.

20 The authorities are the ones that take
21 precedence and come in and say, "Okay. This
22 child needs to be removed" or "this child did
23 commit this crime," or "did not commit this
24 crime," or "This is not a crime and just proceed
25 with your student code of conduct." So --

1 Q. Is that a no?

2 A. So, I can't say in its entirety that we
3 do because there is a section in here that we
4 cannot follow because we do not have that.

5 Q. Does Academir have a Title IX
6 coordinator?

7 A. We do.

8 Q. Who is it?

9 A. We have three coordinators. We have the
10 three people that they go to for specific things.
11 Xenia is for employees, myself is for students
12 and parents, and then Ms. Mir, which is for all
13 others -- vendor and all others. So, let's say
14 that they --

15 Q. So I want to go through those.
16 You said Xenia?

17 A. -- for employees.

18 Q. Okay.

19 A. And staff. And myself for parents and
20 students.

21 Q. I don't believe that is what you said
22 previously.

23 A. I did. I've always said that.

24 Q. You're the Title IX coordinator for
25 employees and students?

1 A. Yes.

2 Q. Are there any other Title IX
3 coordinators for students of Academir Charter
4 Schools besides you?

5 A. No.

6 Q. When did you become the Title IX
7 coordinator?

8 A. When we developed the plan a couple of
9 years ago. We had to delineate these roles. We
10 had to set this up because Dade County --
11 remember, I told you we had the training and we
12 had to set up who is going to be responsible for
13 what and our HR --

14 Q. When was that?

15 A. I don't know. Two years ago when I came
16 aboard.

17 Q. Two years ago you became Title IX
18 coordinator?

19 A. Yeah, or a year later when we started
20 revising the policies.

21 Q. Okay.

22 A. When we knew that we had to break it up
23 before and there was only one person, but now we
24 broke up because last year we had the training
25 and they're like, "You have to have these

1 specific things in place."

2 Q. Is your status as a Title IX coordinator
3 documented anywhere?

4 A. Just in the plan. It will say who to
5 contact for different things.

6 Q. What plan?

7 A. Within our policy, it tells you who to
8 contact for all of the different areas. So,
9 you'll see Xenia is for any employee -- any
10 faculty and staff; myself with parents; and
11 Ms. Mir for the vendors and the contractors.

12 Q. Which policy states that you are the
13 Title IX coordinator for Academir students?

14 A. It doesn't say I'm the coordinator. It
15 just says I'm the contact person.

16 Q. For Title IX purposes?

17 A. Yes.

18 Q. Where does it say that?

19 A. In one of the pages of the policy where
20 it says who to contact for faculty and staff
21 issues, for parent and student issues, and then
22 for --

23 Q. Okay. What policy is that that you're
24 referring to?

25 A. Title IX.

1 Q. What Title IX policy?

2 A. The one that we have on file for the
3 schools.

4 Q. Okay. What policy for Title IX do you
5 have on file? Where is it located?

6 A. I'm not following. I told you in the
7 policies and procedures. In the policies and
8 procedures manual or that section of the manual,
9 you have who to contact for what type of
10 complaint under Title IX. You have the people
11 that are identified there.

12 Q. Okay. You're referencing a document.
13 Policies and procedures that list you as the
14 Title IX coordinator for students and --

15 A. It does not list me as the Title IX
16 coordinator. It's the contact person for Title
17 IX under students and parents, complainants.

18 Q. Okay.

19 A. Or when they have a complaint, correct.

20 Q. Okay.

21 A. And then for Xenia. So, you'll see her
22 name, you'll see her name and you'll see
23 Ms. Mir's name.

24 Q. Okay. What is that document that you
25 just referenced? What is that titled?

1 A. It's under the fiscal management and
2 procedures. Those are the same procedures that
3 we have for all Academir schools.

4 Q. You said "fiscal management and
5 procedures"; correct?

6 A. Correct.

7 Q. Is that the same document that you read
8 from earlier in your deposition?

9 A. No.

10 Q. Okay. What document is titled "Fiscal
11 Management and Procedures?" Where is that
12 located?

13 A. It's the policies that the schools have
14 to follow all of the things, from management of
15 funds, to enrollment, to everything. And one of
16 those policies is the Title IX and the procedures
17 to follow for each.

18 Q. You're not answering my question.

19 Where is that policy located?

20 A. It's located at each school. I told you
21 earlier that it was located at each school. We
22 have the policy here.

23 Q. Okay. But earlier when you referenced a
24 policy related to fiscal management, you later
25 ended up reading from the Title IX compliance

1 manual of --

2 A. Correct, because I had that one with me,
3 and I knew that that particular policy was for
4 students, similar to the one that we have with
5 the exception of the cops and the Civil Rights
6 Compliance office.

7 Q. Okay.

8 A. That policy is the one that we have to
9 follow for students.

10 Q. Okay. So I just --

11 A. Sorry. They wouldn't contact the
12 District Title IX. They don't contact that
13 because that is not part of the charter.

14 Q. So, I just want to make sure I
15 understand your testimony clearly. There is a
16 policy that exists at each Academir Charter
17 School that discusses fiscal management and
18 within that it discusses your status relating to
19 Title IX matters that is separate from the
20 document that you read from earlier?

21 A. Yes. The document that I read from
22 earlier belongs to Miami-Dade County Public
23 Schools. We, when dealing with students, we have
24 to follow the Dade County public schools
25 policies. So, that policy has to be followed

1 with students for the Title IX. That has nothing
2 to do with our contact. When we add our contact
3 to the actual Title IX, what it means -- what if,
4 you know, sexual harassment, all of that, who to
5 contact for complaints about, you know, faculty
6 and staff, for students and for, you know, others
7 you have who to contact and what steps to follow.
8 That is part of the policy.

9 Q. And for the school that my client
10 attended, where would that policy be located that
11 you just described? Is it in Ms. Bello's office?

12 A. In her binder.

13 Q. In whose binder?

14 A. Ms. Bello's binder. Every principal,
15 every school has a binder with all of their
16 policies.

17 Q. So, Ms. Bello -- and this is your
18 testimony today that Ms. Bello has a binder and
19 within it there are policies and procedures that
20 list you as the Title IX coordinator for Academir
21 Charter Schools; is that correct?

22 A. That's correct.

23 Q. Okay.

24 A. But I'm not the Title IX coordinator.
25 But I'm the contact person for them.

1 Q. I'm sorry. That list you as the contact
2 person for Title IX; is that correct?

3 A. For students -- for parents and
4 students.

5 Q. I'm asking you about for Title IX
6 purposes and that is what you testified to.

7 A. Correct, for parents and students.
8 Because you're saying general Title IX and I'm
9 not in charge of general Title IX. You have
10 Xenia, you have myself, and you have Ms. Mir for
11 Title IX. So, for students that is the person
12 she has the contact for. For her staff, she has
13 Ms. Xenia, who is also on that same form.

14 Q. So, is it your testimony now that you
15 are not the individual responsible for Title IX
16 matters relating to students?

17 MS. KARRON: Object to form.

18 THE WITNESS: I am.

19 MS. KARRON: I think that -- and I
20 don't want to interrupt you at all and
21 you can strike this if you want. I just
22 want to help clear it up because she's
23 saying that she's the coordinator
24 dealing with students and parents.
25 There's --

1 MR. MACDONALD: Okay. I'd like for
2 her to just finish her answer. We'll
3 break in a moment.

4 BY MR. MACDONALD:

5 Q. So, in that binder that Ms. Bello has in
6 her office, are the words "Title IX" listed
7 anywhere in that document?

8 A. Yes. Yes, they are.

9 Q. And it lists you as the contact person
10 for Title IX matters relating to students;
11 correct?

12 A. Correct.

13 Q. And how long has that document existed
14 for that lists you as the point contact for Title
15 IX matters for students?

16 A. I want to say last summer or the summer
17 before. I can't recollect when that was
18 published or put out.

19 Q. And that could be found under a section
20 relating to fiscal matters you said?

21 A. Yes.

22 Q. What does that binder look like?

23 A. I don't know. It's a long compliance
24 binder that they all have to carry that has all
25 of their policies, all of their manuals, their

1 handbooks, everything that they need on the
2 day-to-day operations, they're going to have it
3 there.

4 When we do our compliance visit with the
5 district, the district also asks them to please
6 show them their manuals, their handbooks, their
7 policies. When we do county accreditation, they
8 have to show them all of the policies and they
9 typically tend to hold them in a binder.

10 I don't know what each one looks like.

11 I know that we say, "Hey, make sure you
12 add this to your binder. Make sure you add this
13 to your policies."

14 Anything that is updated, you know, we
15 send out on an annual basis. Their faculty
16 handbook and manuals, they should also be kept
17 there under one of the tabs. They get evaluated
18 on a yearly basis -- or not evaluated, but they
19 do a site visit for compliance at the district
20 level and they have to show all of these
21 documents. So, they keep them, you know, in a
22 binder, typically and it may be multiple binders
23 because there is a lot of, you know, documents,
24 policies, and procedures and they're all kept in
25 binders.

1 I can't tell you exactly what her binder
2 looks like. I don't know. Well, I haven't --

3 Q. Have you ever seen one of these binders
4 before?

5 A. Yes, because I used to be a principal so
6 I had my binders for compliance.

7 Q. Have you ever seen any principal at
8 Academir with one of these binders?

9 A. Yes.

10 Q. And what did it look like?

11 A. Three-ring binder, typically black with
12 labels, tabs.

13 Q. Okay. And who had this binder when you
14 saw it?

15 A. Principals in the office, typically in
16 their office.

17 Q. Which principal?

18 A. Ms. Bello, Ms. Ortega, Ms. Triana
19 (phonetic). You know, when I do my site visits,
20 their binders are there.

21 Q. And you've seen Ms. Bello's binder
22 before with these policies and procedures;
23 correct?

24 A. Uh-huh.

25 Q. Was it black as well?

1 A. I don't remember if it's black and
2 white, but I'm not sure, but -- I can't recall.

3 Q. Where does she store it in her office?

4 A. She has a shelf. Well, they all have
5 shelves and they're all there. All her binders
6 are there.

7 Q. It's on a shelf in her office; correct?

8 A. Correct.

9 Q. Okay. And is it one binder or more than
10 one binder that contain these policies related to
11 Title IX?

12 A. One binder would be the one that has
13 Title IX. I can't tell you which one she has it
14 in, but she has many binders in her office and
15 one of them has the section on Title IX.

16 MR. MACDONALD: Well, I'm going to
17 go ahead and ask on the record that you
18 provide that to the attorneys for
19 Academir so they can give one of these
20 binders to us because they haven't been
21 produced in this litigation, just so you
22 know.

23 All right. We can go ahead and go
24 and take a lunch break, so let's go off
25 the record.

(Lunch recess.)

BY MR. MACDONALD:

Q. Now previously, before we took a break, you stated you were a point of contact regarding Title IX for Academir?

A. I am only for students and parents.

Q. But you are not a Title IX coordinator?

A. We have an HR Title IX coordinator. She's the one that you'll see as a designated person.

Q. Is there a Title IX coordinator for students?

A. Myself, Olivia Bernal.

Q. So you are the Title IX coordinator for students at Academir?

A. Yes.

Q. As a Title IX coordinator for Academir, what duties do you handle?

A. Any grievances that are brought forth by parents with regards to -- that are sexual in nature that come. Anything having to do with -- I do all the grievances for the schools, but in this particular case this is just related to sex or touching or something of that nature -- sexual.

1 Q. Are you the designated person that the
2 students are supposed to report Title IX
3 complaints to?

4 A. They report it directly to their
5 schools. If that process -- once that process
6 takes place, the schools notify me and the
7 parents can file a complaint if the issues are
8 not resolved at the school level.

9 Q. And what about if the student themselves
10 wants to bring forward a complaint?

11 A. They report it to their school
12 administration or they can file a complaint.
13 They can ask for it.

14 These are also kindergartners so it's
15 probably hard for them to, unless they tell their
16 teachers usually.

17 Q. I'm not asking about kindergartners or
18 any particular instances. I'm asking you about
19 generally the Title IX policies for Academir.

20 A. Okay.

21 Q. As Title IX coordinator, do you oversee
22 investigations?

23 A. Me and my team, yeah. We look at --
24 typically we don't have a whole lot, but we look
25 at any case that comes through. We involve the

1 upper management, the executive management team
2 and we take a look. We listen to parents. We
3 work with the school administration.

4 Q. Who is on your team bringing the Title
5 IX complaints?

6 A. Xenia, Esther Mir, Rolando Mir.

7 Q. Rolando Mir is a member of the Title IX
8 team?

9 A. No, but if he has complaints from
10 parents, typically he'll join us.

11 In this case the parent reached out to
12 him directly.

13 Q. I'm asking generally about Title IX
14 policies again. Who are the --

15 A. Those are my three members, me, Ms. Mir,
16 and Xenia.

17 Q. And have both of those two other members
18 of your team undergone Title IX training?

19 A. Yes.

20 Q. And who conducted that training?

21 A. Through ADP, we go through a training.

22 Q. Is that the ADP TotalSource training
23 that you mentioned earlier?

24 A. Yes.

25 Q. But I thought that training didn't cover

1 Title IX topics?

2 A. They did cover Title IX topics: Sexual
3 harassment. They do cover that topic. You asked
4 me specifically about school-based.

5 Q. Right and --

6 A. For students you asked me and I said
7 that it does not cover student-based. It's very
8 general and on how to handle cases and how to
9 address concerns.

10 Q. So, let me rephrase the question.

11 For the other two members of the team,
12 have they received training that is specific to
13 the federal law Title IX and not general sexual
14 harassment training?

15 A. Title IX, yes, they have.

16 Q. When did they undergo that training?

17 A. I don't know that. I don't have that
18 answer.

19 Q. What training was that that covered
20 Title IX specifically?

21 A. I don't know. You'd have to ask them.
22 I don't have that information with me.

23 Q. Okay. But previously you had testified
24 that they had received training on Title IX;
25 correct?

1 A. They have received training, that is
2 correct.

3 Q. Okay.

4 A. But do I know what day and time and what
5 was the title of it, I do not know.

6 Q. What do you know about the Title IX
7 training they received?

8 A. I don't know what Title IX they've
9 received. I know they received it through ADP.

10 One of them is our HR director. So, I
11 know that for sure she has received the Title IX.
12 Ms. Mir has also received the Title IX, but can I
13 tell you specific information about their
14 training, no, because I don't have that
15 information with me.

16 Q. And those are the online modules that
17 you described earlier with ADP TotalSource; is
18 that right?

19 A. Online training.

20 Q. Right?

21 A. The one that I attended.

22 Q. Were the words "Title IX" included in
23 that training?

24 A. Sexual harassment? I can't recall.

25 Q. What can't you recall?

1 A. If it had the "Title IX" on the title.

2 Q. Does ADP TotalSource specialize in
3 educational institutions?

4 A. Yes. The people that are handling our
5 accounts, yes.

6 Q. And you know for a fact that the
7 training that you took covered Title IX topics?

8 A. Yes.

9 Q. Do you remember what the name of the
10 training was called?

11 A. No, I do not. I can't recall.

12 Q. So, you mentioned that you and the two
13 of the members of that team handle Title IX
14 investigations; right?

15 A. Say that again.

16 Q. You mentioned that you and the two other
17 members of that team handle Title IX
18 investigations; is that right?

19 A. Yes.

20 Q. How many Title IX investigations have
21 you and your team handled in your tenure?

22 A. I cannot recall. I don't have a
23 specific number in my head. I don't have that
24 information. I wasn't told I had to bring that.

25 Q. Well, you didn't have to bring anything.

1 I'm asking if you recall ever conducting a
2 Title IX --

3 A. I don't recall -- I do recall, but I
4 don't recall the number of times that I have done
5 them.

6 Q. Was it more than once?

7 A. Yes.

8 Q. Was it more than five times?

9 A. Yes.

10 Q. When is the most recent time you
11 conducted a Title IX investigation?

12 A. Probably a couple of weeks ago, but I
13 can't recall. And it really didn't boil down to
14 anything because there really wasn't a case to
15 follow.

16 It was just something that was brought
17 forth and then it was like a story that a child
18 said or a middle school student said. And then
19 the story changed. And so, they're like, "No, it
20 really didn't happen. It was just I said that
21 because of this." So, the case was not really
22 carried through.

23 Q. So, this was a Title IX investigation
24 that you handled within the past couple of weeks?

25 A. Yes, it was a complaint. We didn't

1 launch an investigation, no.

2 Q. When was the last time you handled an
3 investigation of Title IX complaints?

4 A. I can't recall. I don't know the exact
5 date. I can't recall.

6 Q. Can you recall a single instance where
7 you handled a Title IX investigation?

8 A. Yes.

9 Q. What do you recall about that instance?

10 A. The information came to me. We looked
11 at it. We collaborated with the school. We got
12 the information from the police. We reviewed
13 everything. We called all the parties. We
14 questioned students. We questioned employees.
15 We spoke to parents. We delivered an outcome.
16 We met with the parents to deliver all our
17 findings and that was pretty much it.

18 Q. And when did that investigation take
19 place?

20 A. When?

21 Q. When?

22 A. I can't recall. I can't recall the
23 exact date.

24 Q. Was it more than a year ago?

25 A. No, couple months ago. Probably about

1 six months ago.

2 Q. And what did that investigation involve
3 that you conducted six months ago?

4 A. What did it involve? A student coming
5 into the restroom, parent says that the aftercare
6 person also came in, went to the bathroom, and he
7 saw him with his pants down. And the other child
8 was in the bathroom. Didn't conclude with
9 anything because there was no time frame. This
10 was brought to our attention months later. We
11 looked at cameras. We did an investigation. We
12 involved the police and there was no
13 determination.

14 Q. What was the age of this student that
15 was involved in this Title IX complaint?

16 A. First grade.

17 Q. And how did you first learn of that
18 complaint?

19 A. The school -- once it happened, the
20 school reported it. The parent then contacted us
21 and we launched an investigation from our end.

22 Q. A school reported it to you?

23 A. Yes, sir.

24 Q. Who reported it to you?

25 A. The school principal.

1 Q. Which principal was that?

2 A. Rosali Ortega.

3 Q. And then once you learned of that
4 complaint from Rosali Ortega, you took over the
5 investigation?

6 A. Well, they had already started the
7 investigation with the police officer and all of
8 that.

9 We, myself and my team, went out to the
10 school. We spoke to the principal. We gathered
11 the information and then we called and contacted
12 the parent. I went out -- back out to the school
13 where the information was being held, which is
14 the report from the student, the report from the
15 parent, the statement from the aftercare
16 gentleman or teenager who works in the aftercare.
17 There was no footage. There was nothing. The
18 police said they didn't have a timeline or a time
19 frame, so they really couldn't go back into the
20 cameras, and they didn't know when it happened,
21 if it was before or after school or during the
22 day. So, there really wasn't -- and we made
23 findings. We met with the parents. We talked to
24 them. The police spoke to them and that was it.

25 Q. And were any interviews conducted as

1 part of that investigation?

2 A. Yes, with the employee and with the
3 student.

4 Q. Were those interviews documented or
5 reported?

6 A. The written statement from the employee,
7 yes.

8 Q. And what about the statement from the
9 student?

10 A. Yes, and an incident report.

11 Q. The written statement from the employee,
12 was that in an incident report as well or was
13 that in a different document?

14 A. No, it was in a different statement
15 form.

16 Q. Is that a standardized form that
17 Academir has?

18 A. Yes, it's the typical one that it just
19 says statement. It has lines. And they write
20 their name, the date.

21 Q. And that is a standardized form that
22 Academir uses during investigations?

23 A. Yes, they should, just for statements.
24 That's the one that Miami-Dade County Public
25 Schools uses, we use the same one. It's just a

1 paper with lines.

2 Q. Are those statement documents that were
3 collected during that investigation stored
4 somewhere?

5 A. In the employee file.

6 Q. In the file for the employee that was
7 part of the investigation?

8 A. The statement, the witness statement --
9 well, the statement that we have on file is the
10 witness -- the actual employee, so that one is in
11 the file. And the student one should be -- it
12 should be because it happened this year so it
13 should be in that file, yes.

14 Q. And would that be included in that
15 employee file as well?

16 A. No, because it had nothing to do with --
17 because it's a student. The incident report is
18 the school's. The school has the documentation
19 as well as for the employee. His statement
20 remains in his file.

21 Q. And where would the school store that
22 statement from the student?

23 A. There are two -- usually there's a
24 binder that has incident reports and then one
25 copy is sent here and we keep it on file.

1 Q. You said there is an incident report and
2 there is a copy that is kept in the Superior
3 office?

4 A. Yes.

5 Q. And that includes the statement from the
6 student as well?

7 A. That would be in his -- the HR file,
8 yes.

9 Q. The statement from the student would be
10 in the HR file?

11 A. No. No, the statement from the
12 employee.

13 Q. Where would the statement from the
14 student --

15 A. There's an incident report that we do
16 for the student. The student usually, when they
17 have their -- when they're that little, we write
18 it for them in their incident report; we're
19 reporting what they're saying.

20 Q. Where would the statement form that you
21 described for the student, where is that stored?

22 A. I said that is a statement form for the
23 employee. He has his own statement and it's in
24 his file, in his employee file, and we also have
25 a copy here in his HR employee file.

1 Q. So, there was no statement form used for
2 the student you're saying now?

3 A. No, I don't believe so. I can't recall.

4 Q. Okay. What was the outcome of that
5 investigation?

6 A. Since this was reported months later and
7 the parents -- since nobody knew the time frame,
8 if it happened in September, if it happened over
9 the summer, if it happened in November, they
10 could not describe it. He read something in the
11 book and he said, "It's like when I saw the pants
12 down of my aftercare teacher." And there was
13 nothing -- you know, he said that he read it in a
14 book and he thought it was funny. And there was
15 a gentleman in a stall and he saw his pants
16 through the bottom of the stall, not that he had
17 seen the actual employee physically naked.

18 Q. And was there a final determination or
19 conclusion issued?

20 MS. KARRON: I'll just object that
21 this is outside the scope of the inquiry
22 scheduled.

23 THE WITNESS: Yeah.

24 MR. MACDONALD: You can answer the
25 question unless your attorney --

1 THE WITNESS: It's unfounded.

2 Unfounded.

3 BY MR. MACDONALD:

4 Q. That was the final determination?

5 A. Yeah, unfounded, no crime committed.

6 MR. MACDONALD: And just for the
7 record -- and I can pull up the
8 notice -- the notice says, "Knowledge of
9 any previous complaints or allegations
10 of sexual harassment/assault made by any
11 student of Defendant Academir from 2017
12 to the present, including the nature of
13 the complaints, investigations conducted
14 and resolutions reached."

15 BY MR. MACDONALD:

16 Q. So, you said unfounded was the outcome;
17 right?

18 A. Uh-huh.

19 Q. Was that recorded anywhere, the outcome
20 of the investigation?

21 A. Because it had to deal with an employee,
22 I'm sure that it was documented in his file.

23 Q. What about for the student, would that
24 investigation conclusion be stored anywhere
25 outside of the employee file?

1 A. No. Once we have the meeting with the
2 parents and we explain everything and they're
3 okay, that is it.

4 Q. There is no record kept of the outcome
5 of the Title IX investigation?

6 A. It didn't get to be anything because
7 there was no -- there was no investigation to go
8 through.

9 Prior to getting to us, the officer
10 could not get any information on this because
11 there was no concrete information. The student
12 didn't know. The parents didn't know. There was
13 no other witnesses but the employee and the
14 student saying he saw his pants in the stall at
15 the bottom. And so, even though it was launched,
16 there was really nothing we could go by. We went
17 based off all of the information that was
18 provided to us by the school.

19 We met with the parents. We showed them
20 everything. And the police officers spoke to
21 them and there was really no true outcome.

22 Q. I would like to --

23 A. Besides them saying that there was no --
24 there was no -- there was no -- they couldn't
25 make a conclusion based on the information they

1 provided.

2 Q. Didn't you previously testify that the
3 conclusion was unfounded?

4 A. It is unfounded because there was no
5 determination that was made. There wasn't.

6 There was no determination made based on
7 the information we had. We couldn't -- not
8 even -- the officer was present and we did the
9 full investigation and there was no information
10 that we could go on based off of the information
11 of seeing somebody in the stall with their pants
12 down. You can't. It's unfounded. There is no
13 information to go on. And that's it. So we
14 closed it.

15 We let the parent know that it was
16 unfounded. There is no evidence. There is
17 nothing that we could go on. And that's it. If
18 the parents agrees and says, "Okay. I want to do
19 further action." At that point the parent
20 couldn't say anything because they had no
21 information to provide us or to continue. There
22 was nothing to do if they're reporting it months
23 later or they don't know the time frame, or they
24 don't know exactly what happened.

25 So, it was unfounded.

1 Q. But the determination that the
2 allegations were unfounded, was that recorded
3 anywhere?

4 A. In the file of the employee who was
5 being accused of having his pants down in the
6 bathroom.

7 Q. Outside of the employee file, is there
8 any record of the finding of your Title IX
9 investigation pertaining to this particular
10 allegation?

11 A. I'm sure that there is something in the
12 file. I can't recall.

13 Remember, we don't have the student
14 files here. We don't keep any student files
15 here. They're kept at the school. So, I'm sure
16 that there is something -- whether it was in
17 writing because they met with the parents, the
18 actual parents at the school.

19 Q. You're sure that there is something in
20 writing as to that unfounded --

21 A. I'm not sure. I'm not sure. I know
22 that we have the incident report and it's there
23 at the school site.

24 Q. Are employees of Academir required to
25 document findings of Title IX investigations?

1 A. Can you explain that? Like what -- I'm
2 not sure what you're referencing.

3 Q. Well, you oversee Title IX
4 investigations for Academir; is that right?

5 A. Correct.

6 Q. And at the end of an investigation there
7 is a finding or conclusion; is that right?

8 A. Correct.

9 Q. Are the findings or conclusions at the
10 end of Academir's Title IX investigations
11 documented anywhere?

12 A. If an investigation is fully launched
13 and there is an outcome, absolutely. When it is
14 not, you'll not have any information besides what
15 is at the school.

16 Q. And in the scenario you just told me
17 about that happened six months ago, there was a
18 full investigation; right?

19 A. I have an incident report, I have a copy
20 of the incident report and that is about it.

21 When it's unfounded, there is really
22 nothing for us to go off. We keep the incident
23 report on record, on file. We leave it there.
24 We have the incident report on record for the
25 employee, his statement, that's on file. We keep

1 that on file, on record for seven years and
2 that's it.

3 Q. Okay. So, Academir does not keep a
4 record of the finding or determination at the
5 conclusion of a Title IX investigation?

6 A. We do. We do and it's either put in the
7 employee file or in the student file. That is
8 where it should be.

9 Q. And in this case that you described six
10 months ago, it was put in the employee file, that
11 determination?

12 A. For the employee, yes, because it was
13 against the employee.

14 Q. And that's not kept in the student
15 records at all?

16 A. No.

17 Q. In situations where an employee is not
18 involved, where are findings or determinations
19 for Title IX investigations stored?

20 A. It's not kept in the student records
21 unless there is a full-blown investigation where
22 there is something that is -- there is a police
23 report and everything, you keep it together, but
24 if there is no investigation or anything like
25 that, it's not kept on file besides the student

1 incident report. That is kept -- the student
2 incident report is kept on file and it usually
3 indicates the action taken.

4 Q. Who is responsible for writing the
5 Title IX findings or conclusions?

6 A. It varies. It could be depending on who
7 is responsible for the different case. I'll be
8 responsible for writing students. And usually
9 the principals give an outcome to the parents.

10 Q. So, for all student Title IX complaints,
11 you're responsible for writing the conclusions or
12 determinations?

13 A. Correct.

14 Q. And when you conduct those
15 investigations and reach your conclusions or
16 determinations, those documents are stored in the
17 student file?

18 A. If it gets to that, yes. Again, I
19 started with this last year. I haven't had big
20 cases. These are elementary students.
21 Typically, you have very, very few. Mainly what
22 we do is we get complaints for the adults, and
23 that is here and that is housed here. And if
24 it's a school matter, it typically stays at the
25 school.

1 Q. What do you mean it stays at the school?

2 A. The student cumulative folder, anything
3 having to do with the case or if there is a
4 police report or something like that done and
5 determined, it's all in the student cumulative
6 folder.

7 Q. Do you keep any records as Title IX
8 coordinator for Academir?

9 A. If need be, but usually no. It's
10 usually we keep them at the school site.

11 Q. Have you ever needed to keep records of
12 Title IX investigations that you've conducted?

13 A. No.

14 Q. So, you do not have any records related
15 to Title IX investigations that you conducted in
16 the past?

17 A. No, all I have is the incident reports.

18 Q. Do you know what a notice of rights is?

19 A. I do. When you provide -- uh-huh.

20 Q. What is it?

21 A. It's a notice that you provide the
22 parents the rights that they have under a
23 complaint investigation.

24 Q. And have you issued a notice of rights
25 in your time as a Title IX coordinator?

1 A. I have not.

2 Q. And why did you not issue a notice of
3 rights with the incident that happened six months
4 ago?

5 A. Because it was handled and it wasn't --
6 before it got to me, the parent knew. We had
7 already launched the investigation. Nothing was
8 being stopped. You know, the child continued
9 his -- to gain access to his education and his
10 afterschool activities. There was a concern, a
11 complaint that came from a parent that the school
12 launched the investigation. Once this happened,
13 they contacted me. I went out there and we
14 discussed this. And there was really nothing to
15 move forward to because we did everything that we
16 needed to do before it even got to -- you know,
17 we launched the investigation with the police,
18 the Department of Children and Families.

19 And everybody said there is nothing to
20 go by on this case. The parent was given, you
21 know -- said, "You have the right to request an
22 investigation." And they said, "Okay. We'll do
23 it. Let's do it." They did it.

24 And I was there for moral support and
25 guidance for the principal.

1 Q. So, for that particular instance you
2 conducted a Title IX investigation but you did
3 not provide a notice of rights to the parents?

4 A. I have not.

5 Q. Do you know what is typically included
6 in a notice of student rights for Academir
7 students?

8 A. It's just the notice of rights that
9 provides them with the information -- and it
10 comes directly from the district -- of the rights
11 they have as parents to request an investigation.
12 If they don't like the outcome, they request
13 further actions -- and I have to look at the
14 paperwork. I don't know it off the top of my
15 head.

16 Q. You said it comes from the district?

17 A. For students that they have the right to
18 apply -- I mean, to request an investigation, for
19 students. For employees, that I cannot speak on
20 because I don't have that information.

21 Q. For notice of rights that are given to
22 students of Academir is that a form created by
23 the district or is that a form created by
24 Academir?

25 A. We follow the district guidelines which

1 is just the form. Just like when we -- any form
2 that requires the due process of students for any
3 specialized programs, we have to use the district
4 forms.

5 Q. Okay. So, Academir utilizes the
6 Miami-Dade School District's notice of rights
7 form?

8 A. Yes, I've given the notice of rights but
9 for other categories, not necessarily Title IX,
10 but anything having to do with special education
11 programs, that's the first thing they receive.

12 Q. And does Academir also adhere to the
13 guidelines of when a -- strike that.

14 Does Academir also adhere to the
15 Miami-Dade County guidelines as to when a notice
16 of rights must be issued?

17 A. Yes.

18 Q. Now, I want to go back to the document I
19 was showing you earlier. This was marked as
20 Exhibit 2. Do you see the section labeled
21 "Sexual Harassment" and this is on the page
22 Defendant's Bates labeled 236?

23 A. Yes.

24 Q. Are you familiar with this definition of
25 sexual harassment that Miami-Dade County uses?

1 A. Yes.

2 Q. Is this the same definition of sexual
3 harassment that Academir uses in its Title IX
4 investigations?

5 A. Yes.

6 Q. And does Academir also use this same
7 sexual harassment definition in investigating any
8 kind of student sexual harassment issues?

9 A. That is correct.

10 Q. And do you see in the description for
11 sexual harassment where it says, "Examples may
12 include but are not limited to unwelcome
13 touching, graphic verbal comments, sexual jokes,
14 slurs, gestures, or pictures, whether in-person
15 or through any other method, including sexual
16 cyber-harassment."

17 Do you see that?

18 A. Yes.

19 Q. And towards the bottom, in the next
20 paragraph it says, "Corrective strategies for
21 sexual harassment may only be used in accordance
22 with the District's Title IX Sexual Harassment
23 Manual."

24 Do you see that?

25 A. I do.

1 Q. Does Academir utilize the district's
2 Title IX Sexual Harassment Manual?

3 A. When it pertains to students, yes.

4 Q. And do you see where it says example,
5 "The student was suspended for sexual harassment
6 because he repeatedly talked about a female
7 student's private parts, making her feel
8 uncomfortable"?

9 A. Yes.

10 Q. And you said you're familiar with
11 Miami-Dade County Title IX Sexual Harassment
12 Manual?

13 A. Yes.

14 MR. MACDONALD: I'm going to show
15 you another document. We'll mark this
16 as Exhibit 3.

17 (Plaintiff's Exhibit No. 3 was
18 marked for identification.)

19 BY MR. MACDONALD:

20 Q. Do you recognize this as the District's
21 Title IX Sexual Harassment Manual?

22 A. Yes.

23 Q. Do you see this page that is labeled 18?
24 I'll give you a moment to review it.

25 A. Yes.

1 Q. And is this the document you had
2 reviewed earlier --

3 A. That's correct.

4 Q. -- that you read the steps off of?

5 A. Right.

6 Q. And earlier you told me that Academir
7 follows this policy with the exception of the
8 references to the District's Office of Civil
9 Rights Compliance and the Title IX coordinator;
10 is that right?

11 A. As well as the cops.

12 Q. As well as the police?

13 A. Correct.

14 Q. And do you see under this section
15 labeled A, on page 19 that says, "Initial steps
16 in response to allegations of sexual harassment"?

17 A. Yes.

18 Q. And Academir adheres to these steps and
19 procedures in handling Title IX complaints?

20 A. Yes.

21 Q. And in step four listed there, do you
22 see a reference to a Title IX complaint form?

23 A. Yes.

24 Q. Does Academir give those forms to
25 students upon receiving a Title IX complaint?

1 A. The school themselves handle all of the
2 initial complaints. It doesn't get to a Title IX
3 office until it's an actual complaint from a
4 parent, which she called and we could not
5 schedule her, that was it, but everything that
6 happens prior to this --

7 Remember, we're not the district and we
8 don't go directly to them for anything. They
9 come to us after the investigation and everything
10 is launched and their determination. They reach
11 out to myself or -- next steps -- if the parents
12 are not happy with the outcome, or they need
13 support or guidance, they come to us.

14 Q. Who makes the outcome or determination?

15 A. If the investigation is conducted,
16 and -- at the school level -- I can't -- they
17 can't wait for me or anybody else, to say, "Hey,
18 call the police" or "Call the Department of
19 Children and Families."

20 Remember, these principals are the loco
21 parentis. They have to make those decisions
22 based on each individual case at their school.
23 They do not wait for an agency or me to make a
24 determination for them because I don't have all
25 of the information, nor can I stop everything and

1 launch an investigation.

2 So all -- everything -- the principals
3 at their school sites have to do all of their due
4 diligence. If at the end, if they still have not
5 reached a conclusion, obviously they have to
6 notify us and let us know this is taking place.
7 And if the parent is not or the student is not
8 happy, they come directly to us and they let us
9 know, "Hey, this has not been resolved." But it
10 has to go directly to the school. This is where
11 the action and the incident occurred. I have
12 no -- I'm not at the location right then and
13 there and I can't make a determination for those
14 parents or decide for the school to call somebody
15 at that moment. So, this comes to me after.

16 Q. Okay. So upon receiving a Title IX
17 complaint, the school principal is responsible
18 for conducting an investigation?

19 A. She is. The initial investigation has
20 to be on the principal. That is correct.

21 Q. And are you, as Title IX coordinator,
22 involved personally in that investigation
23 conducted by the principal?

24 A. Once she starts an investigation, she
25 does everything, they contact me after. And they

1 let me know, "Hey, Bernal. Here is what is
2 happening. What do I do? I've communicated with
3 the parents or the officer found nothing." I
4 say, "Okay." If they need my help, I come out to
5 the school. If they need further resolution, we
6 take over on this end and we invite the parents
7 here, or we communicate or we schedule an
8 appointment with the parents and then we follow
9 up, but typically all of the investigation and
10 everything has to be done immediately at the
11 school.

12 Q. Okay. So, you do not get involved in an
13 investigation in response to a Title IX complaint
14 until after the principal has made a conclusion?

15 A. After everything has been initiated.
16 She probably is not going to make a conclusion.
17 If the child leaves a school before the
18 conclusion, there is really nothing she could do.
19 If she starts and she says, "Okay, I need to meet
20 with the parents. I need to get all of the
21 information," we can't, you know, just call the
22 Department of Children and Families unless we
23 suspect that there is abuse or neglect, and that
24 this child is in distress and in harm's way, we
25 contact the Department of Children and Families

1 or we contact the police. And they, you know,
2 obviously take over and we have to ensure the
3 safety of the children if they're still in our
4 care or if they've gone over, obviously we have
5 to communicate immediately with the families,
6 with the parents, of both children. We meet with
7 the children. We have to determine -- not we,
8 but the schools have to determine if this is
9 actually an incident that requires next steps or
10 further action if it's reported that, then they
11 know what to do, they know who to contact. Once
12 that starts and it's still not -- you know, they
13 come to me and they come to us for support.

14 Q. Who comes to you for support?

15 A. The school administrators or parents on
16 behalf of their children.

17 Q. So, after a principal receives a
18 complaint, a Title IX complaint, at what point or
19 when do you become involved as a Title IX
20 coordinator?

21 A. It depends if there isn't -- if the
22 police have to get involved and they're referred
23 to the Department of Children and Families, they
24 call us right up or we or her to let us know that
25 this is taking place. We review the information

1 and we wait for the authorities to come up with,
2 you know, or -- to determine if this is something
3 that needs to be processed or something that
4 needs to be continued. And then, you know, we
5 work with the school. We work with the families
6 depending on each individual, you know,
7 case-by-case need.

8 Q. You mentioned if the police or the
9 Department of Children and Families become
10 involved, are those the only circumstances when
11 you become involved in an investigation as Title
12 IX coordinator?

13 A. Not necessarily. If it's something
14 severe, but typically that's our first line of
15 defense is making sure the safety of the student,
16 making sure that, you know, that all parties
17 involved are listened to, that, you know, if we
18 need to call the police, right then and there we
19 call the police. You know, it depends. If it's
20 a child or a student, those cases are taken very
21 seriously; the police are always involved if
22 that's the case.

23 And again, if it's an incident that
24 occurred between two young students, we have to
25 be very cautious and careful because these are

1 very small children and so we have to handle it
2 and understand what took place before we launch a
3 full investigation and call and alert, you know,
4 everybody when it might have just been,
5 something --

6 Q. I want you to fully answer the question.
7 I think you're losing sight of the question I
8 asked.

9 In what circumstances do you become
10 involved in an investigation as Title IX
11 coordinator besides --

12 A. It depends.

13 Q. Okay. What specific --

14 A. If it merits our involvement because
15 there is no resolution or they need assistance at
16 the school because this is a case that warrants a
17 full investigation, we get involved. If not, we
18 do not get involved. Most cases are handled at
19 the school site.

20 Q. Okay. I want to know the specific
21 instances when you --

22 A. I can't give you a specific. I can't
23 answer that. I don't know. It's on a
24 case-by-case basis.

25 Q. Okay. So, there is no set guidelines as

1 to when you become involved as a Title IX
2 coordinator?

3 A. I told you that it depends. And I have
4 explained this several times. You're not
5 understanding. This is not a black and white.
6 This is when you're dealing with students. It's
7 very different. You're dealing with high school
8 students and kindergartners. It's very
9 different. I'm not going to get involved, you
10 know, when a little -- when somebody says let me
11 see your pipi. I mean, kids show their pipi all
12 the time in kindergarten. I mean, it's real.

13 Q. Yes, but you're here to testify about
14 Academir's policies and procedures. So I'm
15 trying to understand if there is a set criteria
16 for when you as the Title IX coordinator becomes
17 involved. If the answer is no, that's okay. I'm
18 just trying to understand.

19 A. No.

20 Q. So, there is no set criteria for when
21 you become involved as the --

22 A. No, it's on a case-by-case basis.

23 Q. And that case-by-case basis
24 determination is made by who?

25 A. By the principal, by us. It depends.

1 If they need to contact us because there is truly
2 an investigation that needs to take place or if
3 there is a parent that comes directly to us to
4 make an allegation, obviously we get involved in
5 the very beginning.

6 If it's something that happens at the
7 school site and the school site is taking care of
8 it, the school principal takes care of it until
9 there is an outcome. If there isn't obviously
10 they involve us if there is a grievance. If the
11 parent is discontent with the outcome, they come
12 directly to us and that's how I get involved.

13 Q. And so it also depends on who makes that
14 determination whether you should get involved as
15 a Title IX coordinator?

16 A. There is no -- like I told you, it's not
17 black and white and it just depends on a
18 case-by-case basis.

19 Q. Is there a form in which you as Title IX
20 coordinator log the facts and date and time of
21 the report?

22 A. Yes.

23 Q. And what form is that?

24 A. We have two. One is a Google doc when
25 they initially launch the complaint, they

1 complete it there so that I can have it
2 electronically. And then there is a form that I
3 use for my notes.

4 Q. What form do you use for your notes?

5 A. Just a documentation form. I can
6 provide it when I submit the other stuff so you
7 can take a look at it.

8 Q. Is that a standardized form or did you
9 create it?

10 A. I created it.

11 Q. And there is also a Google doc that
12 lists complaints related to Title IX?

13 A. Well, if they complete a complaint, they
14 can do it on the Google form.

15 Q. What do you mean complete a complaint?

16 A. So, if they're going to submit a
17 complaint, they can do it through a Google form.
18 It's a link so they can complete a form.

19 Q. And who is they?

20 A. Parents, students, teachers, whoever has
21 a complaint they can use that form, which
22 obviously, after COVID everything went digital,
23 so that's the form. Before it was a paper-pencil
24 one, a handwritten one. Now it's on Google. So,
25 if there is a complaint, they can complete the

1 complaint electronically.

2 Q. And do you see the section labeled "B.
3 Supportive Measures Offered to the Complainant
4 and Respondent"?

5 A. Yes.

6 Q. Does Academir utilize these procedures
7 as well in handling Title IX complaints?

8 A. That is correct.

9 Q. And do you see the section labeled
10 "Notice of Rights"?

11 A. Yes.

12 Q. And you said that Academir follows these
13 policies in giving notices of rights to Title IX
14 complainants as well?

15 A. Yes.

16 Q. And do you see the section labeled
17 "Interviews and Investigation"?

18 A. I do.

19 Q. And does Academir adhere to these
20 policies in conducting interviews and
21 investigations of Title IX complaints?

22 A. Yes.

23 Q. Are students who are interviewed in
24 Title IX investigations given a copy of their
25 statements?

1 A. The incident reports, yes. The parents
2 once they come in, we take -- whoever reports it,
3 usually is the person whether it's the student,
4 the teacher, we write it. We write the witness
5 statement. And all of the documentation is kept
6 there. When the parent signs, we always make a
7 copy and we provide the parent with a copy.

8 Q. So, if a statement is taken from a
9 student, a student is provided a copy of that
10 statement?

11 A. The student is not provided; the parent
12 is provided a copy because the parents have to
13 sign that the information is accurate. Once we
14 reach out to the parents, we talk to the parents,
15 whoever reported it has to sign. The teacher has
16 to sign. The school administrator has to sign
17 and the parent has to sign and they're provided
18 with a copy.

19 Q. And during Academir's Title IX
20 investigations, are parties and witnesses allowed
21 to provide any evidence that they may have?

22 A. Yes.

23 Q. Does that include video or audio
24 recordings?

25 A. Typically, no. And I know what you're

1 referencing, but not -- if there is something
2 that is a text message or something that was
3 sent, usually the police gather the information,
4 but when there is a naked child in a bathtub
5 saying something like that, we do not, because
6 those are privacy laws, and we cannot -- we can't
7 see naked children or anything like that.

8 I understand that the dad didn't show
9 the video because the principal didn't want to
10 see the video of the naked child. She, the
11 assistant principal, when he met with her had her
12 listen to a recording of it and that was that.

13 But we don't collect or take anything
14 until the investigation starts. So, usually if
15 it's something that's brought to our attention --
16 but we have to be very cautious especially with
17 the content of it. If it's something sexual in
18 nature, that there is an image of a naked child
19 or something like that, the police officer or the
20 detective in this case -- because the regular
21 officers don't do the investigation and they turn
22 it over to a detective who then gathers and
23 collects all of the information.

24 Q. Okay. I'm not asking about any specific
25 instances. I'm just asking for the policies of

1 Academir during Title IX investigations.

2 A. Yes, if it's a full-blown investigation,
3 yes, everything is admissible and it's collected.

4 Q. Okay. We can come back to this policy.
5 Are there any other policies pertaining to Title
6 IX for Academir that we have not reviewed?

7 A. No.

8 Q. Perfect.

9 No, and what about the document that you
10 had described earlier? I believe you said it was
11 approximately ten pages with the fiscal measures.
12 We haven't reviewed that document; correct?

13 A. No. I spoke to Ms. Karron and I told her
14 that I would forward you guys a copy. I don't
15 know how I'm going to get the binder. I'm going
16 to have to go to the school and make copies of
17 the binder?

18 MS. KARRON: Don't tell him
19 anything that I told you.

20 But, yes, I can ask them to get the
21 documents over to us right away. So,
22 Kyle, I will produce that as soon as I
23 have it.

24 MR. MACDONALD: Thank you.

25 BY MR. MACDONALD:

1 Q. And that document that you referenced
2 earlier, does that -- I know it mentions you as a
3 contact person for Title IX; right?

4 A. Yes. For the parents and the students,
5 yes.

6 Q. Does that document also list policies
7 and procedures for Title IX as it pertains to
8 Academir?

9 A. Yes.

10 Q. And what do those procedures pertain to?
11 Is it handling investigations?

12 A. Yeah, just the grievance process and how
13 to go by -- if you are discontent with the
14 outcome, you know, this is the process to follow.
15 Most of those policies pertain to the employees.
16 Obviously they have a section on students. And
17 then the portion of students is following the
18 Miami-Dade County Public Schools' policies and
19 procedures outlined in the Title IX sexual
20 harassment policies for the district for
21 students. So, that one encompasses employees,
22 students, and then others vendors and so forth.
23 It includes the form.

24 Q. And that was the policy that you drafted
25 with Xenia and Esther Mir?

1 A. Yes.

2 Q. Are you familiar with my client Jane?
3 We'll refer to her as Jane.

4 A. I am not.

5 Q. Are you aware of allegations she has
6 made pertaining to sexual harassment, sexual
7 assault?

8 A. I am privy to the allegations that were
9 verbal in nature, yes, that later became physical
10 in nature, yes.

11 Q. When did you first learn of the
12 allegations you mentioned?

13 A. It wasn't until the following week. The
14 school handled the situation, I believe on the
15 20th. That Friday she contacted Mr. Mir. On
16 Fridays we're not here. The parent contacted
17 them directly. And the following week there was
18 no school. And then on Tuesday, you know,
19 obviously we discussed the situation. They tried
20 to have the parents come out so we could meet
21 with them and we were not able to connect. After
22 that the parents withdrew the child from the
23 school.

24 Q. Who first notified you of the
25 allegations made by Jane?

1 A. The school principal called us that
2 Wednesday or Tuesday regarding the situation.
3 And then we received a call from -- well, the
4 office received a call from the parent directly,
5 asking to speak to Mr. Mir.

6 Q. And when you say the principal called
7 us, who?

8 A. Not us. A management company. She
9 called and spoke to the executive management team
10 which is Mr. Mir and Ms. Mir. Many times we're
11 handling different things and he was able to pick
12 up and speak to her.

13 And she just informed him that, you
14 know, this case was reported on Friday. The
15 child communicated to four different adults that,
16 you know, the child just said something to her
17 verbally. The child was fine. The child was
18 left in aftercare, picked up in the afternoon.

19 We called the parents of both of --
20 well, we didn't. The school called the parents
21 of both individuals. And the parents then
22 contacted the teachers so that they could set up
23 an appointment or vice versa that Tuesday. The
24 parents came out to meet with the assistant
25 principal and the teacher on that Tuesday. And

1 then that afternoon after the parent got really
2 irate, the principal contacted the parents so
3 that they could meet and it didn't -- you know,
4 he never showed up. So, the next day the child
5 came to school like normal on Tuesday and
6 Wednesday, didn't come back to school on Thursday
7 and Friday. And that's all.

8 Q. So, I just want to go through the events
9 in order. So, just bear with me. In terms of
10 the entire story, let's save that.

11 Who first told you about the allegations
12 made by Jane?

13 A. That Wednesday when Ms. Bello called to
14 speak to us, here at the management office, she
15 was just, you know, "There's a parent that is
16 really upset," kind of gave us the background. I
17 said, "Okay. We're going to reach out."

18 The parent called here and left a
19 message. I didn't get the message. Mr. Mir got
20 the message because they asked specifically for
21 Mr. Mir. On the school campuses we also have a
22 broad "If you have a question or concerns, please
23 call the management office. Request to speak to
24 Mr. Mir." He was the previous owner of the
25 Academir Preschool so a lot of the parents do

1 know him and will go directly to him and that's
2 how he got the call.

3 Q. How did you first learn about that
4 incident?

5 A. When Ms. Bello called us that Wednesday
6 to let us know that the parent, you know, never
7 showed up and that he was very upset and that he
8 was going to call us.

9 Q. So, the first time you learned about
10 Jane's allegation was on a Wednesday when
11 Susie Bello called you?

12 A. No. She called the office and Mr. Mir
13 got the call.

14 Q. And did Mr. Mir tell you about what the
15 allegations were?

16 A. Yes, we spoke about it.

17 Q. On that same Wednesday?

18 A. I believe it was on the same Wednesday.

19 Q. And what did Mr. Mir tell you the
20 allegations were about specifically?

21 A. He just said that there was a parent
22 that was making allegations that his daughter
23 was -- and he got this from the teacher -- I
24 mean, not teacher, the principal, that the child
25 was inappropriately touched by another

1 kindergartner student in the class, but that was
2 not what was reported to the principal.

3 So, the parent -- initially when the
4 parents were called and the student came to
5 report this to the teacher, she told the teacher
6 and she told -- well, the PE teacher, then the
7 regular teacher, then our administrative
8 assistant in the front, that the child told her
9 something inappropriate which was communicated to
10 both parents and it was told by the parent -- I
11 mean, by the student that someone told her
12 something inappropriate and she -- there -- they
13 know when something is said to them that they
14 have to report it to an adult, and she did. She
15 reported it to her PE teacher.

16 Her PE teacher, when she turned over the
17 class, she says, "Hey, look this is what
18 happened."

19 The teacher asks the child, "What
20 happened."

21 She said, you know, "So-and-so said this
22 to me."

23 And then she's like, "Okay. Maybe I'm
24 not understanding" because she's not Hispanic,
25 but they asked Ms. Sol (phonetic), who is in the

1 front, to translate what those two words meant so
2 they could be confirmed. And she says, "Well,
3 you know, she's saying that, you know, he wanted
4 to kiss her and touch her tetitas and her cuca."

5 And we called the parents immediately.
6 And not we -- the school called the parents
7 immediately. The teacher did.

8 Q. Okay. So, stepping back a little bit,
9 when you spoke to Rolando Mir, did he tell you
10 that the allegations involved touching or did he
11 tell you that the allegations were strictly
12 verbal on that Wednesday?

13 A. Verbal.

14 Q. And did he say --

15 A. That all of the allegations that the
16 child reported to us were verbal.

17 Q. Did he mention that the parents had
18 stated the allegations included touching as well?

19 A. The principal communicated to him that
20 everything was verbal including that Tuesday when
21 they got back, the child confirmed to the
22 counselor that the child only told her verbal
23 comments; he did not touch her.

24 So, the four adults that the child
25 communicated with at the school level told

1 them -- that it was verbal comments that were
2 made to her; that he had not touched her.

3 When the parent comes in and is irate,
4 he's like, "No, my daughter was touched. My
5 daughter was touched." And then, obviously he
6 contacted or they contacted the office.

7 Q. So, starting with the verbal
8 allegations, what were the words that were
9 reported when you learned of that incident
10 specifically?

11 A. You have to ask those questions
12 specifically to the school, but what was said
13 was, "I want to kiss you in your mouth, touch
14 your tetitas and your cuca." That is what was
15 conveyed to us.

16 Q. And "tetitas" that refers to breast, I
17 imagine?

18 A. Yes.

19 Q. And what does "cuca" refer to?

20 A. Private part of a girl.

21 Q. So when you learned of this incident, it
22 was that Jane had reported to four individuals
23 that another student had made comments about
24 kissing her mouth, kissing her breast, and then
25 kissing her vagina?

1 A. Not kissing. He said, "I want to
2 touch." He didn't say, "I want to kiss" or
3 anything like that.

4 And again, I wasn't present at the
5 school. And this happened a very long time ago,
6 but I remember it was him saying, "I want to
7 touch your tetitas and your cuca," that's what he
8 said and "kiss you" so I can't -- I can't be
9 100 percent because but that was what was told to
10 me.

11 Q. So, the comments that were reported by
12 Jane were about kissing her mouth, touching her
13 breast, and touching her vagina; is that right?

14 A. Yes.

15 Q. Okay. When you learned first of just
16 the verbal allegations, did you then initiate a
17 Title IX investigation?

18 A. No.

19 Q. And --

20 A. When this was communicated, the -- we
21 asked the parents to come in and schedule a
22 meeting with us. By the time the investigation
23 started, the parents had already left the school.

24 Q. All right.

25 A. The school had to do their due diligence

1 and we didn't find out until after the fact, that
2 same week. That was it. She didn't come to
3 school those two days. The parents were supposed
4 to come in and meet with us, and it never
5 happened. So, at that point there is nothing for
6 me to start. And once they withdraw the child,
7 there is not much I can do on this end because I
8 don't have access to that child nor do I have
9 access to the records of that child. Everything
10 has to be turned over. There is nothing I can do
11 at that point.

12 Q. Did you conduct a Title IX
13 investigation?

14 A. I did not.

15 Q. Did anyone at Academir conduct a Title
16 IX investigation into Jane's allegations relating
17 to the verbal comments we just discussed?

18 A. The school staff, they initially, you
19 know, ensured that the child is okay. The child
20 was not crying. There was no physical anything
21 that happened. I know that they did do their
22 investigation. They pulled the cameras. They
23 spoke to the parents. They completed the
24 documentation that they needed to complete. They
25 had the counselor, which is one of the things

1 that normally happens when something like this
2 because they have to, you know, ask the right
3 questions to determine -- they have to ask the
4 right questions to ensure that the child is safe
5 and that everything is, you know, is followed.
6 And it was determined that the child only said it
7 was verbal.

8 At that point everything was done. The
9 children were separated.

10 Can you hear me because I'm getting
11 feedback?

12 MR. MACDONALD: Ms. Walton, I think
13 you may need to go on mute.

14 BY MR. MACDONALD:

15 Q. I'm just asking if Academir conducted a
16 Title IX investigation into Jane's allegations?

17 A. They conducted their initial
18 investigation to see if there had to be an
19 investigation. They don't start an investigation
20 unless they are certain.

21 And, you know, you're dealing with two
22 five-year-olds that say things to one another.
23 We contacted -- we spoke to the child. The child
24 said that she was not touched. That the child
25 felt fine. She was happy. She stayed in

1 aftercare until the very end of the day.

2 When we communicated this to the parent,
3 the parent left her in aftercare. There was
4 no -- you know, the child was not in distress.
5 Were there any signs of assault? No, none of
6 that.

7 So, again, until Tuesday, even the
8 counselor spoke to the child, the child indicated
9 that the child only said something verbally to
10 her. When somebody says something and it happens
11 once, if there is a repeated pattern and the
12 child is being constantly harassed. "You're
13 pretty. You're pretty. I like you. I like
14 you," you know -- you don't. If it happens in
15 isolation -- you know, sometimes kids say things.

16 You can't launch a full investigation
17 unless you are certain that something actually
18 did happen to this child. And again, if the
19 child herself is telling you that she's fine,
20 that he didn't touch her, that he didn't do
21 anything to her, and you communicate with both
22 parents, you communicate with both students, but
23 there -- sometimes there's, you know, that's it.
24 There is no need for an investigation.

25 Q. Ms. Bernal, I'm just asking you a simple

1 question. Yes or no, was a Title IX
2 investigation conducted by Academir into Jane's
3 allegations of the verbal comment?

4 A. No, there was no investigation.

5 Q. Was there any kind of investigation
6 pertaining to sexual harassment generally that
7 was conducted?

8 A. Yes. At the school level, yes.

9 Q. And who was in charge of that
10 investigation, which employee?

11 A. Initially, the teacher reports it to the
12 assistant principal. Obviously, everybody is --
13 they asked her. The teacher asked her. Ms. Sol
14 asked her. They -- there really isn't much to,
15 you know, to address at that point. We knew that
16 a comment was made at the end of the day. The
17 student got picked up, went home.

18 We spoke to the other student's parents.
19 The child was embarrassed. He was like, "I'm
20 sorry. I'm sorry."

21 The little girl, there was nothing wrong
22 with her. She was fine. She went on with her
23 day. And that was at the end of the day. And
24 really there is no -- nothing was determined at
25 that time.

1 On Tuesday, first thing you have the
2 counselor come in and talk to the child
3 obviously, to see --

4 Q. So, I don't want to cut you off.
5 Because I don't want you to keep repeating
6 yourself. I just want to go through it step by
7 step.

8 You said, yes, there was a sexual
9 harassment investigation conducted?

10 A. Well, it wasn't -- it wasn't a sexual
11 harassment because it wasn't a sexual harassment
12 case. It was an incident where a child verbally
13 said something to another child. And so, at that
14 point it's only verbal. And it wasn't something
15 where the child was, you know, physically and
16 mentally distraught. So, kids say things to one
17 another. And at that point it was determined
18 that, you know, it was just something verbal,
19 something that was said.

20 And the school has to make a
21 determination, you know. Is it something that
22 was, you know, done because they're just kids?
23 And in this case it was. Everybody that was
24 involved -- and Ms. Valladares, who was taking
25 care of the situation. Were both parents called?

1 Yes, everybody was called.

2 Parents came in the following week. And
3 then at that point, they needed to get more
4 information. And things change from one weekend
5 to the next week and that's when everything kind
6 of spiraled. But those specific questions, I
7 would like for you to ask the school-based
8 employees that were present there, doing the, you
9 know, following the process.

10 Q. Well, you're here to testify on behalf
11 of Academir Charter Schools with regards to the
12 investigation.

13 A. Okay.

14 Q. You said that the verbal conduct
15 specifically, that did not constitute sexual
16 harassment per Academir's policies?

17 MS. KARRON: Object to form.

18 THE WITNESS: Again, children at
19 that age say things that many times can
20 be inappropriate. If you see a pattern,
21 if you see that the child is like, "He's
22 bothering me. He's bothering me and he
23 keeps touching me" -- or, you know,
24 kindergartners will do silly things.
25 And, you know, the fact that he said

1 that -- obviously, we took matters
2 immediately --

3 The teacher pulled the children
4 aside, spoke to and called each parents.
5 Action was taken to ensure, "Hey, look
6 this is what happened today in school.
7 This is what I spoke to your son about.
8 He said, 'Yes, I said it,' " but it was
9 not something that this kid that you saw
10 that it was a constant harassment and
11 that the child felt she was, you know,
12 felt -- or you saw that she was
13 assaulted or something to that extent.
14 It wasn't. It was a comment. And the
15 teacher at that time said, you know,
16 "Okay. I'm going to handle it. I'm
17 going to contact your parent and I'll
18 talk to your parent."

19 And I don't want to speak on behalf
20 of the child, but I know that they did a
21 SCAM where they documented that the
22 child said something inappropriately.
23 That SCAM stays with him for the rest of
24 his academic record. You know, it is
25 documented that this took place. You

1 know, the teachers immediately separated
2 them. They called the parents. The
3 following week they were meetings with
4 the parents to discuss and that's when
5 the --

6 BY MR. MACDONALD:

7 Q. Before you keep going -- I don't want to
8 keep cutting you off. I want to keep track of
9 what you're saying.

10 You said a SCAM?

11 A. Uh-huh.

12 Q. What is that?

13 A. It's a district form that we use. It's
14 a district form that is used to document
15 incidents or situations that arise at the school
16 for everything. And then it's documented and
17 it's kept in -- well, it's entered into DSIS and
18 it stays there as permanent record.

19 Q. But the verbal conduct that was reported
20 to Academir, did the school consider that to
21 constitute sexual harassment? Yes or no?

22 A. No. At the moment, no, especially after
23 questioning the child.

24 Q. And who made that determination?

25 A. The school administration, the

1 principal.

2 Q. Okay. So the principal --

3 A. The assistant principal and the
4 principal is the one who ultimately makes those
5 decisions.

6 MR. MACDONALD: We can go ahead and
7 take a ten-minute break.

8 (A brief break was had.)

9 BY MR. MACDONALD:

10 Q. Previously, I believe you stated that at
11 some point the father of Jane alleged that the
12 conduct between Jane and this other student was
13 physical and was not just verbal; is that right?

14 A. That is correct.

15 Q. When the school, meaning Academir,
16 learned of that allegation of physical contact
17 between the two students, was that considered to
18 be a report of sexual harassment by Academir?

19 A. So, I want you to understand that this
20 was never a harassment because harassment is
21 constant. It's repeated. This was an isolated
22 incident that the school was reporting because
23 the child said that it was verbal the entire
24 time. The story then changed on Tuesday. It
25 changed on Wednesday. By the time it got to us,

1 the parent reached out directly.

2 So, we have to go based on the
3 information that we have. And prior to this, we
4 had no indication, no notification. The school
5 didn't exhibit any of this, nor were they privy
6 to any constant harassment. That's why this
7 didn't get to us because it didn't constitute a
8 sexual harassment.

9 Q. Okay. And --

10 A. The father then brought it to the, I
11 guess, the administration. That first it was
12 this and then it was that. And the story changed
13 every time.

14 So at that point, obviously, it comes to
15 us and we try to set up the meeting with the
16 father or Mr. Mir tried to set up the meeting
17 with the father.

18 Q. Regardless of whether it was proven to
19 be true or not, was the reported conduct of the
20 physical contact between the two students
21 considered to be sexual harassment by Academir?

22 A. It was not because again, it was
23 something that was not considered harassment. It
24 hadn't happened before. It was something that --
25 it was an incident that took place at the school

1 that was verbal in nature.

2 Q. I'm asking you specifically about the
3 father's allegations that you referenced,
4 specifically --

5 A. The father didn't bring the allegations
6 to us. He called us. We got the information
7 from the school.

8 Q. But the father's allegations to the
9 school of physical touching, did Academir believe
10 that to be a report of sexual harassment?

11 A. No, because it was always verbal. For
12 them it was always verbal until the story changed
13 on each day. So, by the time that it got here,
14 we didn't consider it harassment. Obviously, we
15 have to listen to the parent and if they say that
16 this is happening, you have to launch an
17 investigation, but that's why we set up the
18 meeting with the parents for the next week, which
19 never took place. At that point we would have
20 launched the investigation because they're
21 requesting one and they have the right to, but
22 the school did not consider it a harassment case
23 because it wasn't a sexual harassment case for
24 them. It was something -- it wasn't something
25 that was happening repeatedly and was keeping the

1 child from accessing her education. It wasn't.
2 She was continuing to come to school. She came
3 to school on Tuesday, had a great day. She came
4 to school on Wednesday, had a great day. She
5 didn't show up the next two days.

6 Q. Okay. But the father's reported conduct
7 to the school of one student putting his mouth on
8 another student's genitals, did that constitute
9 sexual harassment by Academir's standards?

10 A. Well, we asked to meet -- the principal
11 asked to meet with the family so that she could
12 discuss the next steps. We weren't given that
13 opportunity.

14 Q. But the school received the report?

15 A. The report from who? Sorry.

16 Q. I understand what you're saying in
17 regards to the investigation and the ultimate
18 findings by the school, but just the reported
19 conduct of what the father of Jane reported to
20 the school, did they consider that to be a report
21 of sexual harassment?

22 A. If they were able to communicate with
23 the father, they would have launched the
24 investigation. When the father came to speak to
25 the -- one of the administrators, he wouldn't --

1 he cursed her out. He would not let her speak.
2 He was irate. You cannot communicate with a
3 father who has --

4 And again, I'm a parent so I know that.
5 When you're upset about a situation, and you want
6 it to go in a certain way -- the father did
7 not -- the only thing that the father wanted was
8 for us to remove the child from the school from
9 day one. He said, "I want this child kicked out
10 of the school. That's it." That's the
11 only thing --

12 Q. Okay. Now --

13 A. Can I finish because I think it's
14 important?

15 If we would have launched an
16 investigation, if the father actually said, "Hey,
17 look," he didn't care. He said, "All I want is
18 the child to get kicked out of the school."
19 That's what he so was upset about, that the child
20 was still in school.

21 So, the principal spoke to him on the
22 phone and said, "I cannot kick a child out of
23 school. It doesn't happen like that. This is a
24 public school."

25 Q. So, I understand what you're saying, but

1 it's going to take a lot longer -- I know you're
2 telling me other information. I'm just trying to
3 get to the questions that I'm asking you. So, I
4 understand what you're saying as to the
5 difficulty of communicating with the father from
6 the school's perspective. I'm asking you:

7 When the father of Jane reported the
8 physical contact between Jane and this other
9 student, did the school consider that reported
10 conduct alone to be sexual harassment?

11 A. The school would have -- obviously, they
12 have to take a different stance at that point.
13 But the school had already spoken to the child
14 four times and she said no.

15 When this happened, the father himself,
16 that same day called the police. He had already
17 started the process. He didn't let us start
18 anything. He didn't let us question -- he didn't
19 let us talk to him. He didn't give the school
20 that opportunity to be able to communicate and
21 start the process. He went and he did it on his
22 own.

23 So, when the police contacted, they
24 contacted the school principal. They said, "Hey,
25 look. I'm coming over. Can you meet me there?"

1 And I can't speak for what happened with
2 the officer at that point. Again, you know, you
3 can ask Ms. Bello when you meet with her, but the
4 father jumped all of that. He didn't want to
5 hear it. And he said, "I'm going to go to the
6 police because the police is going to take the
7 kid out of the school." That was his -- what he
8 wanted to do.

9 And so you can't -- the police can't do
10 that. The police has no jurisdiction over that.
11 They don't have the -- these are public school
12 students. There's a process for everything.

13 Q. So, if I understand you correctly, the
14 school Academir did not consider that reported
15 conduct to be sexual harassment because they had
16 already spoken with Jane about this?

17 A. No, that's not -- they had already
18 spoken to her. And everything that they knew of
19 this incident was it was a verbal incident. It
20 wasn't a harassment because it was something that
21 did not happen prior to. The kid never even said
22 anything to anybody else. This was a one-time
23 thing that needed to be taken care of at the
24 school immediately. Speaking to the parents,
25 speaking to the students, giving the students

1 counseling, separating them. I mean, we took the
2 matters that we had in our hand to take those
3 measures to ensure the safety if anything ever
4 happened.

5 You know, again, when we meet with the
6 parents then we start -- again, you have to
7 listen. You need to sit down and you need to
8 listen to the parents. If at that point, it's
9 determined, then okay, we'll launch an
10 investigation. But the father didn't give us
11 that opportunity. I know he went ballistic. And
12 then, by the time all of this started, he called
13 the cops. He called the cops. He did
14 everything. So, the cops was already coming.
15 The student couldn't take action because the
16 father was already threatening and taking action
17 and already doing everything that he was doing.

18 Q. And what day did that occur when the
19 father called the police and the things you just
20 mentioned?

21 A. I can't recall, but I want to say it was
22 on Wednesday.

23 Q. And when did the school first learn of
24 that allegation from Jane?

25 A. On Friday.

1 Q. Between Friday and Wednesday, did
2 Academir contact any law enforcement agency about
3 what had been reported? Yes or no?

4 A. No, they did not.

5 Q. Between Friday and Wednesday, when the
6 father became involved and called law
7 enforcement, did Academir contact the Florida
8 Department of Children and Families? Yes or no?

9 A. No. It was not a sexual harassment
10 case. The school went based on what they knew,
11 which was a verbal comment that was made to the
12 child. It was never brought to their attention
13 until the following Tuesday because there was no
14 school, it was a weekend -- it was a long
15 weekend. And they didn't come back until Tuesday
16 once they met with the family.

17 Q. I'll show you a document I showed you
18 earlier. Do you recall looking at the Miami-Dade
19 code of student conduct?

20 A. I do.

21 Q. And do you remember telling me that
22 Academir adheres to this definition of sexual
23 harassment?

24 A. Yes.

25 Q. Ok.

1 A. And if you look at the example, it also
2 says, "repeatedly talked about a female." So
3 you're talking about repeatedly, which is the
4 definition of harassment. When something happens
5 repeatedly, often, constantly, that constitutes
6 sexual harassment.

7 Q. That's an example. Right. So, let's
8 look at the definition. It includes verbal
9 conduct; right?

10 A. Uh-huh.

11 Q. And non-verbal conduct, as well; is that
12 right?

13 A. Yes.

14 Q. And it goes on to say, "that is severe
15 or pervasive enough to create an intimidating,
16 hostile or offensive educational environment,
17 cause discomfort or humiliation or unreasonably
18 interfere with the individual's school
19 performance or participation as defined" -- and
20 then it cites --

21 A. Correct. Severe and pervasive.
22 Meaning, happening repeatedly.

23 Q. Severe or pervasive; right?

24 A. Uh-huh.

25 Q. And what does "severe" mean?

1 A. On a case by case, but it's something
2 that -- is it severe where -- did this actually,
3 if you ask for this particular instance, the
4 child said, "No, he hasn't done anything. He
5 just told me."

6 These are five-year-olds. These are not
7 criminals. These are not adults. These are
8 babies. These are kids that you have to teach
9 right from wrong. And if they're just saying,
10 "He didn't do anything. He just told me he
11 wanted to."

12 Q. Wanted to what?

13 A. You can't -- "that he wanted to touch
14 me." But, it doesn't -- again, these are young
15 children. These are young children. And it's
16 not something where, you know, you say, wow, you
17 know, he's a sexual offender. He's a baby. Both
18 of them are. And you have to take matters
19 seriously. But you have to communicate. You
20 have to talk to them first. You have to find out
21 what happened, you have to see if she was hurt if
22 he touched her.

23 Q. And so, the other student, he is
24 referred to as L.R., he's five years old -- is
25 that right -- at the time of this incident?

1 A. I'm not sure. I want to say, yes.

2 Q. Okay.

3 A. They were both in kindergarten at the
4 time.

5 Q. And in your opinion as chief operating
6 officer of Academir schools, is it normal or
7 appropriate behavior for a five-year-old student
8 to discuss touching another student's vagina and
9 breast?

10 A. It depends. It's on a
11 student-by-student basis. There's some students
12 that --

13 Q. It depends?

14 A. Yeah, because you're talking about cuca
15 and tetitas and things that he may hear at home.
16 Is he acting upon it or is he doing something
17 beyond that? Or is he talking about it
18 constantly. And this was the first time he had
19 ever even said something like that.

20 Q. When is it appropriate for a
21 five-year-old to discuss touching another
22 student's vagina?

23 A. It depends on who the parents are and
24 who the child is. I can't answer that question
25 because typically in a school setting it may not

1 be.

2 Q. Well, you're the Title IX coordinator
3 and chief operating officer. So I'm asking you:

4 In your professional opinion, in what
5 circumstances would it be appropriate that a
6 five-year-old --

7 A. You're talking about kindergartner --

8 Q. Hold on a moment. Let me finish my
9 question.

10 In what circumstances would it be
11 appropriate for a five-year-old student to
12 discuss touching another student's vagina?

13 MS. KARRON: Object to form.

14 THE WITNESS: It never is something
15 where it is appropriate. It's not, but
16 that's why there were consequences to
17 the actions that were done.

18 So, the child received a written
19 reprimand. He received the counselling.
20 He received the referral, which is the
21 SCAM form. There were consequences to
22 the actions. I'm not saying that his
23 behavior was appropriate, which in no
24 way, shape, or form was appropriate, but
25 these are learning experiences for them.

1 It does not mean that the child
2 committed a crime because he said
3 something. You have to learn. These
4 are babies that you have to teach and
5 you have to let them know, "Hey, this is
6 wrong. You don't say this in school."

7 This is why you communicate with
8 parents, "Hey parents, if you say those
9 words, 'cuca' and 'tetitas' around your
10 children, don't do it because they are
11 going to repeat them."

12 So these are the conversations you
13 have. So I'm not saying that his
14 behavior in any way was appropriate or
15 any child talking about private parts in
16 their class is appropriate. It is not.
17 It is never appropriate, but in the
18 context of the situation, you have to
19 look at it and you have to say, what --
20 if he said this or did he actually do
21 this. And we don't know that that
22 actually took place. And according to
23 all of our information and the child's
24 report to us, was that it was just a
25 verbal comment made to her. And the

1 child was in no -- she was not in
2 distress mode. She was not crying. She
3 just said, "He wanted to do this." She
4 told the teacher that. And so, if we
5 see that the child is physically,
6 emotionally distressed about a
7 situation, we're like, "Okay. This can
8 constitute harassment," but if five
9 minutes later you see them playing and
10 talking, then it may not because these
11 are five-year-olds.

12 And it all depends on an individual
13 basis. Now, if you talk about a high
14 school student, you may be talking about
15 something different.

16 BY MR. MACDONALD:

17 Q. Now, this other student, L.R., said that
18 he wanted to do these things -- is that right --
19 as it was reported?

20 A. I only -- I cannot attest to that
21 because I was not there and I did not receive the
22 information firsthand.

23 Q. Okay. But what was reported to Academir
24 was that this other student, L.R., wanted to
25 engage in a sexual act; is that right?

1 A. He said that he wanted to touch her
2 tetitas, yes.

3 Q. Would you agree that that is a sexual
4 act?

5 A. It's not a sexual act. That is not a
6 sexual act. That is comment. That is a
7 statement that a child may make, but it's not an
8 act. An act is when you actually do something
9 about it. So, if I say, "I'm going to touch
10 you," and I touch you, that's an act.

11 Q. But if a student says, "I want to touch
12 your breast," they're saying they want to engage
13 in a sexual act; right?

14 MS. KARRON: Object to form.

15 THE WITNESS: I can probably say
16 that, but not act on it. I can't say
17 that. I don't know. I can't say that
18 for sure.

19 BY MR. MACDONALD:

20 Q. And did Academir ever determine whether
21 the allegations of the physical contact between
22 the two students were true or not in its
23 estimation?

24 A. There was not enough time to do any
25 investigation. The child was pulled from the

1 school. And the officer that the father
2 contacted made a report. And the dad said --

3 The officer told the principal, "The
4 minute that the dad said, 'Oh, there was
5 sexual -- she was touched,' the officer was --
6 told the father, "Wait. Wait. Wait. I can't
7 handle this. You need a detective."

8 He said, "No, yo quiero que ese nino se
9 vaya de la escuela." That was the only thing
10 that the father was interested in, not to do an
11 investigation.

12 If my child is assaulted and touched, I
13 want a detective to do an investigation. He
14 declined it. He did not want that.

15 MS. KARRON: If you're speaking in
16 Spanish, you need to do an English
17 translation so the court reporter can
18 get it down.

19 THE WITNESS: I'm so sorry. The
20 father -- the police officer, when he
21 contacted the principal, indicated that
22 the father, that the minute that he told
23 the officer that the -- that the
24 daughter was touched by another student,
25 assaulted by another student, the

1 officer said, "No. I'm here only to
2 take a report. In this case you're
3 going to need a detective."

4 And the father says, "No. No. No.
5 No detective. We don't need a
6 detective. I just need the child to be
7 taken out of the school."

8 So, if my daughter is assaulted,
9 and something actually physically
10 happened, you'd better believe I want
11 that detective to be there in there with
12 me doing a full-blown investigation.

13 And he told the officer no.

14 So, when the officer came to the
15 school, and spoke to the principal, he
16 said the dad didn't want to launch the
17 investigation. He didn't want a
18 detective.

19 Regular cops just take reports.
20 They don't do an investigation. They
21 have to turn this case over to a
22 detective. And the father said he
23 didn't want that.

24 BY MR. MACDONALD:

25 Q. How do you know that?

1 A. Because the officer communicated that
2 with the principal.

3 Q. And that was communicated to you from
4 the principal?

5 A. Correct.

6 Q. But you were not there, were you?

7 A. I was not.

8 Q. And you said if you had a daughter that
9 was assaulted you would want an investigation to
10 be conducted by law enforcement; is that right?

11 A. Absolutely. I would want a detective
12 present.

13 Q. Okay. And would you want that school
14 that your daughter went to to conduct an
15 investigation?

16 A. If my daughter tells the school that
17 nothing happened, I can't. If my daughter said,
18 "No, nothing happened. He just said that to me,"
19 what investigation?

20 Now, if she told me, "Yes, I was
21 assaulted and I did all of this," but this is a
22 baby who is not -- who is communicating and not
23 communicating. She communicated with the school
24 something completely different that did not take
25 place. And it went from touch to lick to kiss to

1 all the different things that changed the story
2 throughout the course.

3 But if the parent initially said, "Yes,
4 I want the investigation. I want the
5 investigation to happen full blown with the
6 detective," I would have called him the minute I
7 left the school. And he didn't -- he did it
8 three days later.

9 And again, when they offered to do the
10 investigation by a detective, according to the
11 principal, the father declined.

12 Q. Now, prior to the father contacting law
13 enforcement, did the school know that he had made
14 allegations regarding physical touching involving
15 Jane?

16 A. You'd have to ask the school that.

17 Q. Well, you're here to testify on behalf
18 of the school in regards to these allegations.

19 A. He communicated with the assistant
20 principal the day of the meeting with the
21 parents, the teacher, and the assistant
22 principal.

23 Q. Was that before he met with law
24 enforcement officers?

25 A. I don't believe so.

1 Q. So, when the law enforcement officers
2 came to Academir that was the first time Academir
3 learned about the allegations of physical
4 touching?

5 A. No, the father contacted -- well, the
6 father spoke to the principal over the phone
7 about a video that he had that he wanted to show
8 her -- that he wanted to send to her.

9 And the principal said, "No. Come on in
10 to my office and we can talk. And we can go to
11 the next steps and we can follow this procedure."

12 And the father never came and that's
13 when he called the police which was on Wednesday.

14 Q. And from the employees of Academir's
15 perspective, what he reported that Jane had said
16 involving physical touching was not what she had
17 reported to school employees; is that correct?

18 A. That is correct. Until Tuesday -- that
19 was the story all until Tuesday.

20 Q. And Jane had reported the physical
21 sexual acts at home with her parents; is that
22 right?

23 MS. KARRON: Object to form.

24 THE WITNESS: I wasn't there, but
25 yes, I'm assuming.

1 BY MR. MACDONALD:

2 Q. Well, isn't that what was reported to
3 Academir by Jane's father?

4 A. Well, I wasn't present there, but that
5 is what the father reported.

6 Q. And the father reported that Jane had
7 been sexually assaulted by another student, true
8 or not; correct?

9 A. Correct.

10 Q. In your opinion as chief operating
11 officer and the Title IX coordinator for
12 Academir, does the school have an obligation to
13 investigate allegations of sexual assault even if
14 they're told to a parent at home?

15 A. Yes.

16 Q. Did Academir investigate the allegations
17 that Jane made at home?

18 A. The process was going to start. The
19 father jumped the gun and he called the police --
20 not jumped the gun because that's his daughter.
21 At the end of the day that's his, you know, child
22 and he's do entitled to do anything. And I would
23 do everything that I could in my power. So I
24 can't say that.

25 But the day that he went to the school,

1 his concern was only -- when he went in the
2 morning, his concern was, "I want that kid out of
3 this school. I want him out. I want him out. I
4 want him out." That was the only thing that the
5 concern was.

6 Later on in the day it changed. Later
7 on the next day it changed.

8 So, again, at that moment, if my
9 daughter really and truly is assaulted, I'm going
10 to pull her. He didn't. The child came to
11 school the next two days, but he didn't care
12 about -- he didn't care about any of the
13 assaults. He wanted the child to be -- that was
14 the only demand that the father had to the
15 principal.

16 He said, "I want him out."

17 That was his worry. He didn't -- it was
18 later that he brought that up, "Oh, no. She was
19 licked. She was licked."

20 And then it became, "She was touched in
21 her pants." And then -- so every single moment
22 it changed what he was telling the
23 administration.

24 Q. Okay. But you said it was going to
25 start. When was that investigation going to

1 start?

2 A. Well, you have to first meet with the
3 parents and you have to get all of the details
4 and the information. And he didn't.

5 When he got there, after the fact, he
6 started screaming and yelling and cursing and
7 going crazy. And at that point how can you
8 communicate with an irate parent and start
9 anything if you don't have any information? All
10 you have is what the dad is saying --

11 Q. And just to --

12 A. -- which is not what you had gone
13 through when you did all of your stuff until
14 Tuesday.

15 On Tuesday the child was still saying
16 that the child only told her something verbally.
17 And the counselor, when she interviewed her or
18 when she spoke to the child, did not see any
19 physical marks, did not see saying, did not see
20 the child in distress, nothing. The child said,
21 "No, he just told me."

22 Q. And are there notes of that interaction
23 between the counselor and Jane?

24 A. Yes. Usually what happens is that they
25 do, it's not a SCAM, but it's a -- a SCAM that

1 gets documented in the DSIS, which the district
2 portal, by the counselor. And it's her
3 counseling notes. And it says, "Spoke to the
4 child. Child said yada yada. And spoke to the
5 parents."

6 And so, you document what took place
7 there. And that is -- I know that that did take
8 place and it's uploaded into the system.

9 Q. But you said -- you discussed
10 communication with the parents and how the father
11 was irate. Was the father's anger or difficulty
12 communicating the reason why there was no
13 investigation launched?

14 A. No, that is not -- no. The parent --
15 you have to be able to communicate with the
16 person who is making the allegations so that you
17 know exactly what needs to take place, and you
18 call and you do -- you launch the investigation.

19 But when the parent comes in and is
20 confrontational and belittling, and is cursing
21 and is going crazy in your office, that is very
22 hard to do.

23 So, again, I think that, you know,
24 having -- and that's why, you know, the principal
25 came in and, you know, said, called him or spoke

1 to him and said, "Hey. I want you to come so
2 that we can start this process."

3 The father never showed up. Then what
4 happened is that then the police showed up.

5 MR. MACDONALD: Okay. I'm going to
6 show you a document.

7 I believe this is Exhibit 4. It's
8 Defendant's Bates labeled 288.

9 (Plaintiff's Exhibit No. 4 was
10 marked for identification.)

11 BY MR. MACDONALD:

12 Q. I'll give you a moment to review.

13 A. Yes.

14 Q. Do you recognize this document?

15 A. Yes.

16 Q. What is it?

17 A. It's a case management form to document
18 a meeting with the student.

19 Q. And do you know who created this
20 document based on looking at it?

21 A. Ms. Ruiz, the school counselor.

22 Q. And does Ms. Ruiz still work for
23 Academir?

24 A. She does not.

25 Q. When did she leave Academir?

1 A. The end of last year.

2 Q. Do you know where she works now?

3 A. I do not. She went on to do her
4 master's program and something. And I don't
5 know. We don't follow employees once they leave.

6 Q. And this form, this was in regard to
7 what Jane had reported; is that right?

8 A. Correct.

9 Q. Now, on the right-hand side, there is a
10 section that says "Service Code"; do you see
11 that?

12 A. Yes.

13 Q. What is that?

14 A. Usually those are codes -- well, it is
15 always codes of what took place, meeting with the
16 students, conference with the parents, counseling
17 session. It just depends. I don't have the
18 codes with me, but they all stand for something.
19 Sometimes it's written reprimand, conference for
20 the record, yada yada?

21 Q. And are those codes referral action
22 codes?

23 A. These are service codes. Referral
24 action codes are when you do a student case
25 management form for inappropriate behavior, for

1 actions that you need to take that need to be
2 documented for verbal warnings, written
3 reprimands, detention. It's usually a negative
4 connotation. These are always notes that you
5 keep when a counselor meets with a child.

6 The referral ones are very different.
7 The referrals are actions that the school takes
8 based on incidents that occur at the school.

9 Q. And in the comments it says, "Student
10 felt uncomfortable due to a verbalized comment in
11 class at dismissal. Student admitted it was only
12 a verbal comment."

13 Do you see that?

14 A. Yes.

15 Q. Why does this report not say what the
16 comment was?

17 A. Because this is put on a public system.
18 And you have to protect the identity of the child
19 and what actually took place. You don't -- you
20 make general statements. You don't say specific
21 things of what the child is told. It's
22 inappropriate language that the child used.
23 Inappropriate, you know, behavior, that was
24 displayed. You don't document that in these.
25 These forms are not for that. These are

1 counselling records and you don't keep that.
2 This is a school setting, an academic setting.
3 It's not like you're going to a counselor outside
4 that has to document all of those things.

5 All of these forms generally are very --
6 they read like that. And that is the way that
7 the district wants to see it and reported.

8 Q. I'm going to show you another document.
9 We're going to mark this as Exhibit 5. This is
10 Defendant's Bates labeled 293.

11 (Plaintiff's Exhibit No. 5 was
12 marked for identification.)

13 BY MR. MACDONALD:

14 Q. I'll give you a moment to review.

15 A. Can you make it a little bigger so I can
16 see the bottom?

17 Q. Sure.

18 A. Okay.

19 Q. Do you recognize this document that I'm
20 showing you?

21 A. Yes, the student case management form.

22 Q. And do you know what this specific form
23 was for?

24 A. Documenting the incident with the
25 student that allegedly said these things to the

1 student, to the young lady, Jane Doe.

2 Q. And who created this form if you can
3 tell from looking at it?

4 A. The school principal. Well, the teacher
5 initially writes it, the teacher. She refers it
6 to administration. Administration then processes
7 it.

8 So, the teacher usually says, "The
9 student made an inappropriate or used
10 inappropriate language with another student,"
11 let's say. And then that form gets referred to
12 the school principal and the actions are then
13 taken. But you have to note -- were parents
14 communicated with, was this child spoken to, did
15 they contact the parents, and so forth before it
16 gets to administration.

17 Q. And here in the description for the
18 narrative it describes it as, "The student made
19 an inappropriate comment to another student
20 during class."

21 Is that right?

22 A. Yes.

23 Q. And then there are referral actions code
24 listed here; right?

25 A. Uh-huh.

1 Q. And it looks like R-9?

2 A. Usually it's like a written reprimand,
3 conference for the record, meeting with the
4 family or the parents, usually those codes stand
5 for the action that was taken.

6 Q. And that's R-9, C-6, and R-7, it looks
7 like?

8 A. Yes, I believe so.

9 Q. Are there referral action codes for
10 conduct that is of a sexual nature?

11 A. There is when it is a level three or
12 above, where there's -- it is identified as that.

13 Q. What is a level three or above?

14 A. I'd have to go back into the student
15 code of conduct and identify it.

16 Q. Is level three conduct the same sexual
17 harassment definition that we looked at earlier
18 for Miami-Dade County?

19 A. In the actual handbook it tells you that
20 it has to be a level three or higher. So, in
21 order for it to constitute that, it has to be an
22 offense that is a level three or higher. We
23 would have to go back to the manual. I don't
24 have it in front of me, but the student code of
25 conduct would indicate what a level three was and

1 explain what each one means.

2 MR. MACDONALD: Let me show you
3 another document. We'll mark this as
4 Exhibit 6.

5 (Plaintiff's Exhibit No. 6 was
6 marked for identification.)

7 BY MR. MACDONALD:

8 Q. I'll give you a moment to review.

9 A. Uh-huh.

10 Q. Do you recognize these as the referral
11 action codes for Miami-Dade County Schools?

12 A. Yes.

13 Q. And do you see on this list that there
14 are two separate categories for sexual
15 harassment?

16 A. Uh-huh.

17 Q. And that includes "unfounded" and
18 "founded," it looks like; right?

19 A. Yes, under level three.

20 Q. Now, why wouldn't the referral action
21 codes include sexual harassment?

22 A. Because it wasn't considered a
23 harassment. It wasn't a sexual harassment from
24 the very beginning. It was not. This referral
25 was done immediately after the incident occurred

1 in the afternoon. And at that point, it did not
2 constitute a sexual harassment case. It was
3 something that happened, isolated that day. It
4 was not something that was happening consistently
5 or that took that to that -- identified it to
6 that level because the child was saying it was
7 something he said to her. He didn't act upon it.
8 He didn't, you know -- he didn't touch her.

9 So once you have that information -- and
10 that initial information that they had all the
11 way through Tuesday, the child only said that the
12 child said that to her. And she didn't say, "He
13 said that to me multiple times." She just said,
14 "Hey, look what he said to me."

15 Inappropriate. That is something we do
16 at the school is "Inappropriate, very
17 inappropriate." And we sing a song that goes
18 along with it. So, you know, those are things
19 that sometimes kids do. And the immediate action
20 is -- okay. That was destructive behavior
21 because you stopped the learning environment.
22 You stopped me from teaching, right, and you
23 disrupted the learning environment. I had to
24 stop what I was doing, refer to the child and
25 attend to that child. That is why it constituted

1 a level one offense where something happened that
2 stopped instruction at that time.

3 And really, in this, at the end of the
4 day, it wasn't even instruction because it was at
5 the very end of the day when the children were
6 getting ready to go home for dismissal. So, it
7 wasn't that it stopped instruction in any -- it
8 was just like, "Okay. I have to stop what I'm
9 doing because I have to take of care of the
10 situation." It happened at the very tail end of
11 the day when the children were coming back inside
12 to get their stuff from PE to line up to go home.

13 Q. Now, earlier I believe you said the
14 other student, L.R., was disciplined or
15 reprimanded; is that right?

16 A. Yes, he was.

17 Q. In what way was he disciplined or
18 reprimanded by the school?

19 A. Well, he was reprimanded by the school
20 administration.

21 This is, you know, "This is something
22 you don't say. You don't say in school."

23 There were consequences. I know just to
24 have that referral on file, it will remain with
25 you all through your schooling. And he was

1 referred to a school counselor, where he also met
2 with the school counselor. The school counselor
3 does, I guess, sessions with him to ensure that
4 he understands correct behavior, redirects that
5 behavior, teaches him right from wrong and why
6 these kind of comments have negative
7 consequences, and what can happen as a result of
8 this. Not to mention that we called the parents.
9 There was a parent conference and all of that
10 took place for this one comment that this child
11 made, you know, those were his consequences. I
12 don't know further beyond that, but I know that
13 that is what I was communicated.

14 Q. And were any accommodations offered to
15 Jane in response to these allegations?

16 A. The children were separated immediately.
17 They were on the same table. They have kidney
18 tables, so they sat together on the same table.
19 They were moved. I know that the principal
20 offered to switch classes that they could move.
21 The parent was like, "Well, why do I have to
22 move?"

23 And they're like, "I'll move somebody at
24 this point. I just want to, you know, keep them
25 away. And if you're not satisfied with just

1 moving them, we can move one of the children out.
2 We don't have a problem with that."

3 He said, "No, I want him kicked out of
4 the school." And that was the sentiment
5 throughout.

6 Q. And that was the principal that offered
7 that to Jane's father?

8 A. Yes. In addition to that we offered
9 counseling. And obviously, we need to make sure
10 that the child is okay. That socially,
11 emotionally that she is okay to continue her, you
12 know, academic day and that was done, as well as
13 when she returned on Tuesday. We offered the
14 class modification, the schedule, but the dad did
15 not want that.

16 Q. And the principal's offer to have the
17 children separated is that documented anywhere?

18 A. That was in a conversation with the
19 parent. So, I don't know if she wrote that down
20 somewhere.

21 Q. Are you aware of any documents that
22 would reflect that?

23 A. No.

24 Q. Okay. Now, going back to when Jane's
25 father informed the school of Jane's allegations

1 about the physical contact between Jane and L.R.,
2 when the school learned of that, did they contact
3 the Florida Department of Children and Families?

4 A. No, they did not.

5 Q. And why did they not?

6 A. Because they -- at that moment, they did
7 not think that it was anything beyond verbal.
8 When the father -- obviously this whole
9 transition happened. And he came in and
10 typically, you say, "Okay. If a child is saying
11 this and has changed the story so much or the
12 story went from this to this," you usually call
13 the Department of Children and Families. By that
14 time, the father had already called everybody.
15 He had called the Department of Children and
16 Families. He had called the police. So, there
17 really was not much -- like, the school was like,
18 "Okay. We want to meet with you. We want to do
19 this."

20 And you also have to be careful because
21 if the parent says, "Oh if I launch an
22 investigation" and sometimes -- and I think that
23 sometimes the school if they felt anything was --
24 "Okay. If I launch it, is he going to get upset?
25 What's going on."

1 But again, the father, the only thing he
2 communicated with my staff is he didn't want the
3 child there anymore. And when the principal
4 wanted to meet with the parent to go to the next
5 steps, he didn't come. He didn't show up. And
6 he just showed up with the police or the police
7 showed up and then we knew that the Department of
8 Children and Families was called.

9 Q. Are Academir employees required to
10 report sexual acts committed between students,
11 minor students to the Florida Department of
12 Children and Families?

13 A. Sexual acts, yes, when we -- absolutely.
14 Any sexual acts, especially with such small
15 children, but there was no acts. That was not
16 verified. And the child herself told four
17 employees, "He did not touch me. He just told
18 me."

19 Q. So, the school did not believe it
20 occurred, but you don't know that for a fact, do
21 you?

22 A. No, I couldn't tell you that for a fact.

23 Q. So, the school made the determination
24 that it did not happen and therefore they did not
25 have to contact --

1 A. I can't tell you that that was the
2 determination, that they said it did not happen.
3 They just -- the process wasn't allowed to
4 continue because of the reaction of the parents.
5 It wasn't that they weren't going to --

6 If a parent comes in and says, "My child
7 was touched. My child was touched," we're going
8 to do something, absolutely, but you have to
9 allow us to go through that process with you to
10 help you and do the investigation. He did not
11 allow us to do that. He became very irate and
12 then at that point he already had the police and
13 the investigation started. So once it's
14 reported, you can't report and say, "Okay.
15 Look."

16 Usually the Department of Children and
17 Families comes out to the school, questions
18 students, questions administration. That never
19 even took place either.

20 Q. That never took place?

21 A. They questioned the student, but they
22 didn't come out to the school to do it, which
23 usually takes place at the schools.

24 When we've called the Department of
25 Children and Families, they usually come out.

1 Q. Did Jane's father prevent anyone in the
2 school from calling the Department of Children
3 and Families hotline?

4 A. Not that I'm aware.

5 Q. What did he do that prevented Academir
6 employees from contacting the Florida Department
7 of Children and Families hotline?

8 A. Nothing I'm aware of -- anything -- I
9 mean, the only thing that the father really did
10 do truly was just become irate and, you know,
11 call the assistant principal a cunt and every
12 name in the book that you can imagine. And
13 insulted her. And at that point, what are you
14 going to do? "Okay. Thank you. Good-bye,"
15 because, you know, there is no reasoning with
16 that father at that point. You try to work with
17 the parents to the extent, you know, in good
18 faith and goodwill to try to resolve the
19 situation for them. And again, when the
20 statement -- it went from this, to this, to this,
21 it kept changing. The story changed along the
22 way. And at that point, the father took matters
23 into his hands and did his reporting.

24 Q. Well, I'm trying to understand why no
25 Academir employees contacted the Florida

1 Department of Children and Families.

2 A. Because until Tuesday -- until
3 Tuesday -- until Tuesday, it was a verbal comment
4 that was made to the student. Wednesday, the
5 police was already there. So there was nothing
6 beyond that. The school knew until Tuesday that
7 it was all verbal, that the child was not
8 touched, that nothing -- the child said, "He just
9 said to me. He just told me. He didn't touch
10 me. He just told me."

11 So, until Tuesday that was the
12 understanding of the school. By Wednesday things
13 had already changed.

14 Q. By Wednesday when the police came, he
15 went into the school, you said, and got irate;
16 correct?

17 A. Correct.

18 Q. Okay. And when he got irate, he was
19 telling this school about this alleged incident
20 involving the physical touching with his
21 daughter; is that right?

22 A. And he was asked to go to the
23 principal's office so that they could start on
24 all of this.

25 Q. But I'm asking --

1 A. He did not go. He did not go.

2 Q. That's not what I'm asking.

3 A. I cannot tell you because I was not
4 physically there. I can't tell you that the
5 father then left there. I don't know if he went
6 home, if then he sat there and then he said I'm
7 going to call the cops. I don't know. I'm only
8 going based off of what was relayed to me.

9 Q. I'm asking --

10 A. I'm just telling you what was reported
11 to me, which was that the parent didn't show up,
12 the police officer showed up on Wednesday to the
13 campus.

14 Q. Okay. But I'm asking about when the
15 father became upset at the school, he informed
16 school staff about his daughter's allegation at
17 home; correct?

18 A. He did to the assistant principal.

19 Q. Okay.

20 A. Which, again, the only reason why he was
21 there was he was asking the child to be kicked
22 out of school.

23 Q. Okay. And --

24 A. He got upset because of that. He got
25 upset.

1 Q. Okay.

2 A. And he got upset because we said we
3 could not kick a child out of school because it
4 was a public school and things did not work that
5 way.

6 Q. And the father told the assistant
7 principal prior to law enforcement coming to the
8 school; correct?

9 A. Yes.

10 Q. Why did the school not contact the
11 Florida Department of Children and Families when
12 they learned through the assistant principal of
13 the allegation of the physical contact between
14 the two students?

15 A. Because everything that -- again, we
16 didn't know if the father was saying that because
17 he was upset and his story changed three times
18 because -- his story changed three times, every
19 time he met with them. And until Tuesday, with
20 the child, including the counselor who
21 interviewed the child and said, you know, the
22 child doesn't seem in any distress. These are
23 threat assessment teams that are issued to ensure
24 the safety of every single child. You have to
25 first question to see if the child is in

1 distress. And, in fact, if this is something
2 that really needs immediate attention from the
3 Department of Children and Families or law
4 enforcement. And the child was happy-go-lucky
5 that day in school. She was fine. She was
6 saying still that the other child only told her
7 that. And at that point, the school wanted to
8 communicate with the families to say, "Hey, let's
9 sit down. What is that you're saying because you
10 told the assistant principal this. You're
11 telling me this and now it's this. So let's come
12 to an agreement."

13 Again, he never showed. He didn't allow
14 us to do that process for him.

15 Q. Okay. But why --

16 A. Then he took the child out of the
17 school.

18 Q. I'm asking:

19 Why, when the assistant principal
20 learned of that allegation did not report it to
21 the Florida Department of Children and Families?

22 A. I don't know.

23 Q. Are you familiar with the term
24 "mandatory reporter"?

25 A. Absolutely. Yes, we are mandatory

1 reporters, yes.

2 Q. What do you understand the word
3 "mandatory" to mean in the term "mandatory
4 reporter"?

5 A. When you are in doubt of a child -- in
6 our case, in a child being in danger or in
7 distress or you think that she is being abused,
8 neglected, exploited, abandoned, whatever it may
9 be you have to call them and you are responsible.

10 At that point it was not determined that
11 she was being abused, that she was being
12 neglected, that she was abandoned or exploited.
13 Those are the terms under the reporting that we
14 have to do. If you feel that -- if you feel that
15 the child is being sexually molested or abused
16 without a doubt you have to call them.

17 Q. Without a doubt?

18 A. Whether it's -- without a doubt.

19 If it's a teacher or a parent.

20 But at that moment, it was not. At that
21 moment there was no doubt. The child was
22 constantly telling us, no, that this was -- that
23 he just made a comment to her. I cannot report,
24 you know, another -- or she won't report another
25 child or I don't -- and I can't speak on their

1 behalf. But if the child from what you know and
2 you know that the child, based on the information
3 that she is providing you was not abused, that
4 there seems to be no neglect, that the child is
5 not abandoned or being exploited, it doesn't
6 constitute that.

7 If the child herself tells me,
8 "Ms. Bernal, he touched me. He hurt me. He did
9 this to me," 100 percent this that is our due
10 diligence. That is our responsibility as loco
11 parentis. That is our number one priority, but
12 at that instant, at that moment the child not
13 did. The child not in any way, shape, or form
14 say any of that.

15 Q. So, because the school doubted the
16 accuracy of that report, they did not have to
17 contact the Florida Department of Children and
18 Families?

19 A. We did not doubt -- I cannot say that
20 they doubted they accuracy. They didn't. They
21 tried to meet with the father. The father became
22 very belligerent with them. So it wasn't -- and
23 then did not show up to the meeting with the
24 principal. He didn't show up to meet with the
25 principal. The principal would have started that

1 process, because that was it at that point. He
2 refused to. She said, "I'll go see you where you
3 are. I'll go meet you at the school. Can you
4 meet me there?"

5 He said, "No. Absolutely no." So, at
6 that point, there's a -- you try to work with
7 them, but if there is something actually
8 happening, I don't think that --

9 These are all educators. These are
10 people that we don't want -- it is in our best
11 interest to ensure their safety. That's our
12 number one priority. At that moment, it was not
13 a harassment case, at that moment, the child was
14 not in distress nor was she -- nor were there any
15 signs or indication that she was physically
16 abused. She was not.

17 Q. Are you aware that Jane's father did end
18 up calling the Department of Children and
19 Families?

20 A. I did. I found out through the reports
21 that you guys put together.

22 Q. Did you review that report?

23 A. Yes.

24 Q. And so, based on reviewing that report
25 you're aware that Jane told an investor from the

1 Florida Department of Children of Families that
2 she was in fact physically --

3 A. I didn't read that report. I just read
4 the report that you guys put together not the
5 report from the Department of Children and
6 Families. I'm not privy to that. I didn't read
7 that so I don't have that information.

8 MR. MACDONALD: So, I'll show you
9 another exhibit. We'll mark this it as
10 Plaintiff's Exhibit 7. And this is
11 Plaintiff's Bates labeled DCF 1
12 through 14.

13 (Plaintiff's Exhibit No. 7 was
14 marked for identification.)

15 BY MR. MACDONALD:

16 Q. And I'll give you a moment to review as
17 I share my screen.

18 A. Okay. That is the demographic
19 information.

20 Q. What was that?

21 A. That's just the demographic information.
22 Okay. That was the allegations that the father
23 made or the parent made.

24 So, what the father communicated to the
25 school is that it happened in a class on a table

1 where they were sitting. So, in PE it says that
2 right there -- right there it says right after
3 the incident occurred in PE, the child ran to the
4 teacher who told the school staff.

5 So, it was said that it took place in
6 her classroom.

7 Q. Okay. But based on -- but this report
8 from the Florida Department of Children and
9 Families, it doesn't just say the conduct was
10 just verbal; correct?

11 A. No, that was the report that was made.
12 That was not what the findings were. That was
13 the allegation narrative that she took down from
14 the parents. That's not something that --

15 Q. I'll show you another page. Do you see
16 this section under "Narrative"?

17 A. I do.

18 Q. Do you see where it says, "They
19 disclosed that her friend from her old school
20 licked her private parts. She said that
21 the parts that licked were her poop and pee
22 pee. She stated that this happened in the
23 classroom. She said that this happened more than
24 once."

25 Do you see that?

1 A. I see that.

2 Q. Is that the parent's allegations?

3 MS. KARRON: Object to form.

4 BY MR. MACDONALD:

5 Q. Based on this report, it appears to be
6 Jane's allegations; would you agree?

7 MS. KARRON: Object to form.

8 THE WITNESS: I wasn't there, but
9 whatever is in the narrative is in the
10 narrative.

11 And it also says in the previous --
12 she was in a previous school with him.

13 BY MR. MACDONALD:

14 Q. Okay.

15 A. I don't know. It could have happened in
16 the previous school. Again -- "her poop and her
17 pee pee." Okay.

18 Q. And do you see this section labeled as
19 "Maltreatment" under "Narrative"?

20 A. Yes, I do.

21 Q. And do you see in that section it says,
22 "Child shows serious emotional symptoms requiring
23 intervention and/or lacks behavioral control,
24 and/or exhibits self-destructive behavior that
25 parent/caregiver is unwilling or unable to

1 manage. "

2 Do you see that?

3 A. I do see that.

4 Q. At any point did Jane show any of those
5 emotional symptoms resulting from what had
6 occurred to Academir employees?

7 A. She -- not to my knowledge. And I don't
8 know the child so I haven't seen her personally.
9 The school would be able to and the teacher would
10 be able to tell you more about her typical
11 behavior.

12 Q. Did anyone from Academir report any
13 symptoms like that to you as Title IX coordinator
14 or chief operating officer?

15 A. No, they did not. They just -- you
16 know, mentioned, she was very sensitive and
17 things like that, but nothing out of the
18 ordinary. These are kindergarten kids, you know,
19 but the teacher may have more to say on that. I
20 can't speak for her.

21 I'm just going to get water. Give me a
22 second.

23 MR. MACDONALD: Let's take a quick
24 five-minute break. I just want to check
25 my notes. And we should be able to wrap

1 up in a moment here. So, we'll come
2 back in five minutes. Thank you.

3 (A brief break was had.)

4 MR. MACDONALD: I just want to show
5 you one more document. We'll mark this
6 as Plaintiff's Exhibit 8.

7 (Plaintiff's Exhibit No. 8 was
8 marked for identification.)

9 BY MR. MACDONALD:

10 Q. Do you recognize this document I'm
11 showing you?

12 A. Yes.

13 Q. And do you recognize this document as
14 Academir Charter Schools, Inc., Amended Answers
15 to Interrogatories?

16 A. Yes.

17 Q. And before I go to specific questions, I
18 wanted to show you this page here at the end. Do
19 you recognize that name here that signed this
20 document?

21 A. Alexander Casas.

22 Q. And do you see that he signed this under
23 penalty of perjury?

24 A. I don't know. Do I answer that? Yes.

25 Q. Do you see that he signed to the

1 accuracy of these answers? Can you give a verbal
2 "yes" for the court reporter.

3 A. I did. I said, yes.

4 Q. Thank you. I want to draw your
5 attention to number ten. I'll give you a moment
6 to read that.

7 A. Okay.

8 Q. Is that response accurate for number
9 ten?

10 A. If they have Academir Charter Schools --
11 I'm not understanding. Academir Charter Schools
12 has ever been accused of --

13 Q. In the last seven years has Academir
14 Charter Schools ever had a report of sexual
15 harassment by a student?

16 A. Okay.

17 Q. Have they?

18 A. If there is a sexual harassment that
19 we've processed that we have on record saying
20 that it happened, no.

21 Now, obviously this is different because
22 parents are alleging that this is -- that this
23 sexual harassment took place. That would be
24 different. Prior to that, I -- they don't have
25 that -- there is no documentation of that.

1 Q. There is no documentation of past sexual
2 harassment complaints in the past seven years or
3 there were no past sexual harassment complaints
4 in the past seven years?

5 A. On behalf of the governing board -- by
6 the time that it gets to the governing board, no.
7 If there was -- not of students to students.
8 There is always going to be issues that may arise
9 at the school, but I don't think that the
10 statement that, you know, we have ever been in a
11 case that we're in front of, you know -- in front
12 of attorneys with this, no. This is the first
13 time we've ever gone through something like this.
14 And this is the first. At least in my opinion
15 and I've been here for nine years and this is the
16 first.

17 And I don't know how long Mr. Casas has
18 been here. Well, he's been here for 10 or 11
19 years and I don't think that he has ever had his
20 staff go to trial because of an allegation.

21 Q. Okay. I'm not asking about lawsuits or
22 anything involving attorneys. I'm asking if any
23 student in the past seven years has ever made an
24 allegation of sexual harassment at Academir
25 Charter Schools?

1 A. No. If they make a comment or
2 complaint, I mean, you know, it's very different.
3 The case that I shared with you, the child said
4 that there was an adult standing with his pants
5 down in the stall. That does not constitute
6 something with, you know, sexual harassment. We
7 haven't had a staff or anything like that
8 involved in a sexual harassment case with
9 students that I'm aware of in this role this last
10 year, no, that there has been with the exception
11 of this student now, Jane Doe, that we've had,
12 that is the first time that I've seen it in this
13 role this time around. As a Title IX and my
14 newly added thing to my role -- one of my roles,
15 you know, while there may be something that a
16 child says, you know, but it has never been
17 brought. And that's why you're asking me these
18 questions and sometimes I'm like I don't even
19 know because we have never had a serious case.
20 If there is something like that maybe with
21 teachers, but never with students that we've had
22 this type of case beyond this one here that we're
23 facing.

24 Q. So, just to clarify. I'm not asking you
25 about a case.

1 In the past seven years in any role that
2 you've served at Academir, are you aware of any
3 student making a report of sexual harassment of
4 any kind?

5 A. In the past seven years as a principal
6 and prior to this role, no, because I was a
7 principal and I didn't have that issue. Here in
8 this role, these minor things that I've seen, but
9 never a sexual allegation to the point where
10 we're at now.

11 Q. Okay. But you're not answering my
12 question. I'm not asking if --

13 A. I can't respond for another person who
14 said that. I can't say that he has never seen
15 it. I haven't seen it except for this case that
16 I have here with the exception of some minor
17 things, but those are kid things that are taken
18 care of and nobody said I want to file an
19 allegation harassment, that, you know, I've been
20 sexually harassed. Never have I seen that.
21 Never.

22 Q. Okay. But I'm not asking if Mr. Casas
23 has ever seen --

24 A. You asked me if I had seen it in my
25 seven years here a sexual harassment, never, with

1 the exception of this case here.

2 Q. And that includes any complaint by a
3 student regardless of whether it became a
4 formal --

5 A. I can't answer that because in seven
6 years I wasn't in this role. So, I don't know if
7 it happened at another campus or something like
8 that. I can't answer that question. I wasn't
9 there and that was not my role so I can't answer
10 that question.

11 Q. Okay. But from your personal knowledge,
12 let's say in the times --

13 A. And I said no. The only case that I'm
14 aware of --

15 Q. Hold on. Just so the court reporter can
16 record what we're saying.

17 In the time that you've worked at
18 Academir in any role, have you ever received
19 personal knowledge of any complaint by a student,
20 informal or formal, any kind of allegation of
21 sexual harassment? Yes or no?

22 A. No.

23 Q. Thank you.

24 A. With the exception of this case. With
25 the exception of this case.

1 Q. Of course. Now, previously you
2 mentioned conducting Title IX investigations in
3 your role as Title IX coordinator; is that
4 correct?

5 A. Correct.

6 Q. Did any of those Title IX investigations
7 involve allegations of sexual harassment?

8 A. No. Like I shared with you the last one
9 that was -- we were involved in involved one of
10 the aftercares with their pants down. There was
11 no touching. There was nothing. He just thought
12 it was funny and he read Diary of a Wimpy Kid and
13 that was the last one. And again, unfounded. So
14 it was nothing that the child was complaining
15 that he was sexually harassed.

16 Q. Okay. Outside of that incident, were
17 there any other Title IX investigations that you
18 conducted?

19 A. No. Not to that extent, no. When I'm
20 involved if it's -- like, you know, a teacher
21 took a picture and it was out of context, and a
22 child said something, you know, but nothing
23 physically as a sexual assault itself that they
24 felt they were abused or anything of that nature,
25 that they were touched, that they were fondled,

1 nothing like that.

2 Q. Have there been report of sexual
3 comments in your time as a Title IX coordinator?

4 A. I'm sure, but a comment is very
5 different from a sexual harassment, from kids --
6 kids are kids. And I couldn't tell you, no, that
7 a kid is not going to make a sexual comment to
8 another kid. You know, they are kids. I can't
9 tell you no.

10 Q. As you can --

11 A. I can't tell you no. I can't tell you
12 no. In this particular role I haven't seen it.

13 As a principal perhaps somebody says, "I
14 like you. You're cute. You've got a big butt,"
15 something like that but nothing where there was a
16 sexual harassment complaint regarding an
17 incident, an assault.

18 Q. And now, I want to draw your attention
19 to question 11. I'll give you a moment to
20 review.

21 A. Okay. Yes.

22 Q. Now earlier; -- well, let me start with
23 this:

24 Is that response accurate?

25 A. For employees, yes.

1 Q. Well, this question asked about Title IX
2 compliance. It doesn't limit it to employees; is
3 that right?

4 A. This is how we conduct our day to day as
5 to what is required of our employees with regards
6 to Title IX, with regards to their training, with
7 regards to their reporting.

8 Q. And their reporting and investigation of
9 Title IX complaints; correct?

10 A. Correct.

11 Q. And that would include student
12 complaints under Title IX; right?

13 A. Right.

14 Q. Okay. Now, in this list of documents
15 and policies, do you see the policy that you
16 described earlier relating to, I believe it
17 was --

18 A. No, because this is just the teacher
19 handbook. The fiscal policies and procedures are
20 not part of the handbook.

21 Q. Sorry. I just wanted to finish my
22 question there.

23 I believe earlier you testified
24 regarding a place in the principal's compliance
25 binder that states that you are responsible for

1 handling student Title IX matters and it contains
2 other additional information about Title IX. Is
3 that document or policy listed in this response?

4 A. No.

5 Q. Do you know why?

6 A. Because this particular one only
7 pertains to our faculty and staff, the teachers,
8 right. And following the student code of
9 conduct, this is for reporting sexual harassment.
10 Having to go through the training, this
11 particular manual would not have that. It's
12 under the fiscal policies and procedures for the
13 day-to-day operations. And so, it is the
14 responsibility of the principal to share that
15 with her staff.

16 But this is just the required policies
17 that are in place for teachers, right. Now, the
18 policies for following specific procedures for
19 the day-to-day operations will not necessarily
20 include all of that, would not include every
21 single policy that we have in place for different
22 things; for financing, for budgeting, for
23 enrollment. I would not give that to the
24 teachers. That is not part of this handbook.
25 This only the teacher handbook -- the teacher

1 faculty handbook.

2 Q. To be clear you'd agree that this
3 question requests policies and procedures related
4 to Title IX; right?

5 A. Yeah, but this is for faculty and --
6 these are employees. This is not Title IX for
7 students.

8 Q. Where are you reading that?

9 A. Because all of the stuff that you
10 mentioned here, that you scrolled down through,
11 that pertains to the faculty and staff handbook.

12 Q. Okay.

13 A. It's not a parent-student handbook.
14 It's a handbook for the faculty. So when
15 reporting the harassment, you know, for
16 themselves, for, you know, compliance with
17 D.A. -- well, the training through ADP. The
18 person that is in charge of that, which is Xenia.
19 So, that is what that is talking about.

20 Q. And you're referring to this section
21 here; right?

22 A. Well, the section of the manual -- you
23 have a combination of the management agreement
24 and the section of the faculty handbook.

25 Q. And you're referring to this part listed

1 here as "Answer"; correct?

2 A. That is correct.

3 Q. I'm asking you about the question.
4 "Describe in detail any policies or procedures
5 related to Title IX compliance."

6 Do you see that?

7 A. I don't know who responded.

8 Q. I'm not asking you --

9 A. I can't answer to something I didn't do
10 myself. So, if I would have been able to tell
11 you all of these things because I wrote it or I
12 did it and I can explain, I can't. This is
13 something that was put together for answers.

14 And again, you know --

15 Q. Ms. Bernal --

16 A. I'm sure that in that little excerpt
17 they're not going to put everything that has to
18 do with Title IX? I'm sure that -- you know, you
19 have a combination of things that were put
20 together, to, you know -- that the training was
21 there, that we follow the policies, that there
22 were procedures in place, that management carries
23 it out. You're not going to get all of the
24 information that you need here.

25 Q. You're here to testify regarding Title

1 IX policies --

2 A. And I have.

3 Q. -- regarding Defendant Academir,
4 Academir Charter School Services.

5 A. Correct.

6 Q. Okay. And you were also expected to
7 testify regarding these responses. So, I'm not
8 asking you about faculty or staff. I'm asking
9 you if you see in this response the policy
10 relating to Title IX that you described to me
11 earlier that is related to fiscal policies and
12 procedures.

13 A. It's not there.

14 Q. And that is a policy regarding Title IX
15 that --

16 A. The only thing that I see referred to
17 there is the employee handbook and the student
18 code of conduct. That is the only things that
19 was added to that answer.

20 Q. And that fiscal policy also references
21 Title IX; correct?

22 A. Yes, it does.

23 Q. Okay. Do you see number 12 there? I'll
24 give you a moment to review.

25 A. Yes.

1 Q. Is that response accurate?

2 A. Not necessarily because I know that
3 things were updated. Minor things were updated
4 of who to contact for what. And this is a new
5 role. So, I know that they were updated over the
6 summer in terms of who to contact because Xenia
7 really only does the HR.

8 Q. So, the Title IX policies for Academir
9 were updated within the past five years?

10 A. Yes, they were.

11 Q. Do you know how many times?

12 A. I can only attest to one.

13 Q. And that one time was in the summer that
14 you had mentioned earlier?

15 A. Yes, when we decided to break it down so
16 everybody has a point of contact for -- according
17 to staff, students, and vendors. And then the
18 form was changed to the digital form.

19 Q. Was that change made after Jane brought
20 these allegations against Academir?

21 A. Yes, because this happened last fiscal
22 year, if I'm not mistaken, so yeah.

23 Q. Are you aware of any other changes that
24 were made to Academir's Title IX policy besides
25 that one that was made in the summer most

1 recently?

2 A. No, I'm not aware of -- I'm not privy to
3 that. No.

4 Q. And prior to those changes that you made
5 in the summer to that policy were the words
6 "Title IX" included in that policy?

7 A. Yes.

8 MR. MACDONALD: And those are all
9 the questions I have for you today,
10 Ms. Bernal.

11 I appreciate it.

12 MS. KARRON: I have no questions.
13 We'll waive.

14 (Reading and signing were waived.)

15 (Thereupon, the taking of the
16 deposition was concluded at 4:44 p.m.)
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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, the undersigned Notary Public, in and
for the State of Florida, hereby certify that
OLIVIA ANGELICA BERNAL personally appeared before
me on May 9, 2024, and was duly sworn by me.

WITNESS my hand and official seal this
9th day of June, 2024.

Katiana Louis

KATIANA LOUIS
Notary Public-State of Florida
COMMISSION #HH 443618
EXPIRES September 13, 2027